

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
COUNTY OF SAN DIEGO  
AND THE  
DISTRICT ATTORNEY INVESTIGATORS ASSOCIATION  
DISTRICT ATTORNEY INVESTIGATORS (DI) UNIT  
AND  
DISTRICT ATTORNEY INVESTIGATORS MIDDLE-MANAGEMENT (DM) UNIT**

**JUNE 28, 2013 – JUNE 25, 2015**

**BOARD OF SUPERVISORS**

District 1 - Greg Cox  
District 2 - Dianne Jacob  
District 3 - Dave Roberts  
District 4 - Ron Roberts  
District 5 - Bill Horn

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**DISTRICT ATTORNEY INVESTIGATORS (DI) UNIT  
AND  
DISTRICT ATTORNEY INVESTIGATORS MIDDLE-MANAGEMENT (DM) UNIT**

**JUNE 25, 2013 – JUNE 28, 2015**

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**ARTICLE 1. PREAMBLE**

THIS MEMORANDUM OF AGREEMENT is entered into by the County of San Diego, said political subdivision hereafter designated as "County," and the District Attorney Investigators Association, hereafter designated as "Association," as the mutual recommendation to the Board of Supervisors of the County of San Diego of those wages, hours, and conditions of employment which are to be in effect during the period from 8:00 a.m. June 28, 2013 through 5:00 p.m. June 25, 2015, for those employees working in representation units referred to in Article 2, Section 1 hereof, subject to the provisions in Article 21, Implementation.

**ARTICLE 2. ASSOCIATION RIGHTS**

**Section 1. Recognition**

Pursuant to the provisions of the Labor Relations Ordinance of the County of San Diego and applicable State law, the District Attorney Investigators Association was certified on April 3, 1980 as the majority representative of County employees in the District Attorney Investigators (DI and DM) Units.

The County of San Diego recognizes the Association as the sole and exclusive representative for all classes assigned to each of the following bargaining units (as listed in the Appendix) as well as such classes as may be added to these units:

District Attorney Investigators  
District Attorney Investigators Middle-Management

The provisions of this Agreement shall be applicable only to employees in classes in the bargaining units above listed.

ARTICLE 2: ASSOCIATION RIGHTS (Cont'd)  
Section 2. Payroll Deduction and Association Dues

In accordance with the rules and regulations of the Auditor/Controller, approved by the Board of Supervisors, it is agreed that Association dues and such other deductions as may be properly requested and lawfully permitted shall be deducted by County from the salary of each employee covered hereby who files with the County a written authorization requesting that such deductions be made. Remittance of the aggregate amount of all dues and other proper deductions made from the salaries of employees covered hereunder shall be made to the Association by the County.

It is not the intent of this Article to alter the current practice of remitting dues and other deductions to the Association as soon as possible after they have been withheld from salaries of employees.

The County will distribute to each new employee entering the unit the following written information:

"The District Attorney Investigators Association, under the provisions of the San Diego County Labor Relations Ordinance, has been declared the bargaining representative for your job classification concerning wages, hours and working conditions that result from meeting and conferring in good faith between the County and the Association. These wages and benefits are contained in the mutual agreement, copies of which will be made available to you by the Association.

An Association representative, during non-duty hours may request to meet with you personally to tell you about the Association in its role as the recognized certified representative for your job classification. On the basis of the evaluations you make, the decision is yours."

Section 3. Association Access

- A. Authorized Association representatives may be granted access to work locations including all hospital and health care facilities, areas utilized for patient care, treatment, and general work, in which employees covered hereby are employed, for the purpose of conducting grievance investigations and working conditions.
- B. Association representatives will comply with the regulations established in this Article. Association representatives shall not interfere with the work operations of any Department or District of the County. Authorized Association representatives desiring such access to work locations shall first request entrance from the appropriate County representative at which time the authorized representative shall inform said County representative of the purpose of the visit. Association representatives shall either telephone the appropriate County representative responsible for the district, division or yard, or shall personally contact such



## ARTICLE 2: ASSOCIATION RIGHTS (Cont'd)

County representative upon entering any work location under his or her supervision.

- C. Said County representative may deny access to a work location if, in his or her judgment, it is deemed that a visit will unduly interfere with the operations of the department or facility thereof. If access is denied, the Association representative shall be informed when access will be made available. Such access shall not be more than twenty-four (24) hours, excluding Saturdays, Sundays, and legal holidays, after the time of the Association representative's request, unless otherwise mutually agreed to.
- D. Representatives have the right to meet with employees during coffee, rest, or lunch breaks at County facilities as may be available.
- E. The Association shall notify the Labor Relations Office within seven (7) days of any change of authorized representatives. Access to work locations hereunder will be granted only to representatives on the current list.

### Section 4. Employee Representatives

#### A. Purpose

The County recognizes the need and affirms the right of the Association to designate employee representatives from the employees in the bargaining unit. It is agreed that the Association in appointing such employee representation does so for the purpose of promoting an effective relationship between the County administration and employees by helping to settle problems at the lowest level of supervision.

#### B. Role of Employee Representative and Supervisor

The employee representative recognizes the fact that the supervisor is the key person in the department and, as such, is responsible to higher management for the quality and quantity of the work. The employee representative understands that the employee representative function does not relieve the representative from conforming to all rules of conduct and standards of performance established by law, regulation, County or department policy or Memorandum of Agreement.

#### C. Selection of Employee Representative

The location and number of representatives shall be mutually agreed upon by the appointing authority and the Association. The Association shall reserve the right to designate the method of selection of employee representatives. The Association shall notify the appointing authority in writing of the names of the employee representatives and the area they represent. The appointing authority

## ARTICLE 2: ASSOCIATION RIGHTS (Cont'd)

will be notified in writing by the Association of any subsequent changes regarding employee representatives and who they are replacing.

### D. Duties and Responsibilities of Employee Representatives

The following functions are understood to constitute the complete duties and responsibilities of employee representatives.

1. After obtaining supervisor permission, employee representatives will be permitted to leave their normal work area during on-duty time not to exceed four (4) hours per week in order to assist in presentation of a grievance. The representative's workload may be adjusted to the extent the appointing authority feels it is appropriate. To obtain permission to investigate a grievance during on-duty time, the representative shall advise the supervisor of the grievant of his/her investigation of the facts and the general nature of the grievance. The employee is permitted to discuss the problem with all employees immediately concerned and, if appropriate, to attempt to achieve settlement with the supervisory personnel involved. Agencies, wards, clients, detainees and outside interested parties will not be contacted by employee representatives as part of the grievance process. The employee may be represented by an employee representative at such time as a grievance is reduced to writing.
2. If, in the judgment of the supervisor, because of the necessity of maintaining adequate level of services, permission cannot be granted immediately to the employee representative in order to present or investigate a grievance during on-duty time, such permission shall be granted by the supervisor no later than the next working day from the date the employee representative was denied permission.

It is agreed that the County shall not attempt to transfer any employee representative of the Association for reasons associated with his/her duties as a representative.

### E. Limitations on Time Off

Employee representatives shall not be permitted time off from their work assignments for the purpose of conducting general Association business.

### F. Handling Grievances

1. When requested by an employee, an employee representative may investigate any alleged grievance in his or her assigned area and assist in its preparation and presentation. The employee representative shall

## ARTICLE 2: ASSOCIATION RIGHTS (Cont'd)

encourage the employee to discuss a problem informally with his/her supervisor prior to filing a formal grievance.

2. After notifying and receiving approval of his/her immediate supervisor, an employee representative shall be allowed reasonable time off during working hours (without loss of time or pay) to investigate, prepare and present such grievances. The immediate supervisor will authorize the employee representative to leave his or her work unless compelling circumstances require refusal of such permission, in which case, the immediate supervisor shall inform the employee representative of the reasons for the denial and establish an alternate time when the employee representative can reasonably be expected to be released from his or her work assignment.
3. When an employee representative desires to contact an employee at his/her work location, the employee representative shall first contact the immediate supervisor of that employee, advise him/her of the nature of the business, and obtain the permission to meet with the employee. The immediate supervisor will make the employee available promptly unless compelling circumstances prohibit the employee's availability, in which case the supervisor will notify the employee representative when he/she can reasonably expect to contact the employee. Where this prohibition extends beyond one (1) work day, the time limits of the grievance procedure shall be extended for the length of the delay.
4. An employee representative's interview or discussions with an employee on County time will be handled expeditiously.

### Section 5. Use of County Facilities

County facilities may be made available for use by employees and the Association. Such use shall not occur during regular working hours other than the lunch period.

Application for such use shall be made to the management person under whose control the facility is placed. Meetings of an authorized representative of the Association and a group of employees shall not be permitted during working hours excepting the lunch hours.

### Section 6. Bulletin Boards

The County will furnish adequate bulletin board space at reasonable locations for the exclusive use of the Association. The bulletin boards shall only be used for posting:

## ARTICLE 2: ASSOCIATION RIGHTS (Cont'd)

- A. Association election materials and election results.
- B. Association official business reports of the Board of Directors or Committees, or employee representatives' reports and notices.
- C. Association news bulletins and meeting notices.
- D. Association membership benefits, programs, promotional information.
- E. Other written materials which have been approved for posting by the Department.

### Section 7. Mail Stop

The County shall provide a mailbox for the District Attorney Investigators Association at the County Mail Center.

This mailbox shall be used only for mail:

- 1. addressed to the District Attorney Investigators Association, from an officer or member of County management, the Board of Supervisors, or Civil Service Commission, or
- 2. addressed to an officer or member of County management, the Board of Supervisors or Civil Service Commission from the Association, and
- 3. which relates to the business with and of the County.

The Association shall not use the County mail service to correspond with a non-member, member, or Association representative. If the Association receives correspondence via County mail service from such a source, the Association shall inform the source that the County mail service cannot be used for such correspondence.

## ARTICLE 3. NO DISCRIMINATION

In receiving the rights afforded by this Agreement, no person shall in any way be favored or discriminated against to the extent prohibited by law because of political or religious opinions or affiliations, or because of racial or national origin, or because of age or sex or physical handicap.

## ARTICLE 4: WAGES

### ARTICLE 4. WAGES

#### Section 1. Wage Rates

##### A. Wage Rates

1. The County has the non-appealable right to increase compensation for classifications in these units. Prior to implementing any wage increase the County shall discuss, in a non-meet-and-confer forum, its intentions with the Association.
2. The County has the discretion to pay recruitment bonuses where the County determines such bonuses are necessary.
3. Effective June 28, 2013, or the pay period after Board adoption, whichever comes later, all classifications covered by this Bargaining Unit shall receive an equity increase of 2.5%.

##### B. Direct Deposit

Effective July 1, 2001, all employees must have made arrangements for the direct deposit of their paychecks via electronic fund transfer into the financial institution of their choice using forms approved by the Auditor/Controller. Employees may have their payroll advice statements mailed to their address on file with the County.

#### Section 2. Quality First Program

A "Quality First" performance-based incentive plan may be instituted in County departments. The purpose of Quality First will be to ensure the achievement of quality service and customer satisfaction.

The establishment, disestablishment, administration and regulation of Quality First programs shall be at the discretion of the County and shall not be subject to appeal under the Grievance Procedure of this Agreement.

Quality First programs are separate from and in addition to other current discretionary award programs for County employees.

If the County determines, in its sole discretion, that the Quality First Program will be authorized during the term of this MOA, a Quality first Program wage adjustment for a temporary period of time of up to four percent (4%) of an employee's biweekly rate of pay, will be paid pursuant to the provisions implemented in the Quality First Program.

## ARTICLE 4: WAGES (Cont'd)

### Employee Eligibility Criteria:

Effective June 27, 2003, eligibility to participate in the Quality First Program requires that, during each applicable plan year:

1. The employee must have begun his/her employment with the County on or before December 31<sup>st</sup>;
2. The employee must not have received a sub-standard performance evaluation or equivalent rating; and
3. The employee must not have received final disciplinary action, which includes any County appeal or County review procedures including the Civil Service Commission. (*Disciplinary actions are defined as those formal actions that are recognized by the Civil Service Rules, Section 7.3.*)
4. Effective June 22, 2007, Letters of Reprimand will not be disqualifying for Quality First.

### Section 3. Step Plan

#### A. Employed July 1, 1974 or subsequently

Subject to the provisions of B below, employees employed on July 1, 1974 or subsequently, having a permanent or interim appointment as a result of blanketing-in, suspension of competitive examination or certification from an eligible list, who have served in his/her class for at least fifty-two (52) weeks at the respective step, shall advance on the first day of the next succeeding biweekly pay period to the next higher step within the range prescribed herein for his/her class.

#### B. Performance-based Advancement

Employees covered by this agreement may not advance to the next higher step if, for the preceding performance rating period, the employee's overall performance was rated at a below standard level (i.e., unsatisfactory, improvement needed).

Employees may advance to the next higher step if, for the preceding performance rating period, the employees' overall performance was rated standard or higher.

## ARTICLE 5. HOURS OF WORK, PREMIUMS AND BONUSES

This Article establishes the County standard for hours of work.

## ARTICLE 4: WAGES (Cont'd)

Biweekly compensation prescribed in the Appendix is based on a full-time schedule of eighty (80) working hours in each biweekly pay period.

### Section 1. Hours of Work

#### A. Work Period

The standard work period is fourteen (14) consecutive days within which is included four (4) days of rest in a fourteen (14) consecutive days period. The days of rest are each to be of two (2) consecutive days. This work period shall be eighty (80) hours in fourteen (14) consecutive days.

Payroll Period: The payroll period begins on the Friday which is the first day of the pay period and ends on the Thursday which is the last day of the pay period, and consists of ten (10) standard work days and four (4) days of rest during the fourteen (14) consecutive day payroll period.

#### B. Standard Work Day

The standard work day shall be eight (8) hours of work in a twenty-four (24) hour day for a total of ten (10) standard work days in a fourteen (14) consecutive day work period. Work days which deviate from this standard are considered as "non-standard" work days.

#### C. Changes

The hours of the standard work day within which the employee shall work shall be established by the appointing authority and may be changed to meet operational or other requirements upon fourteen (14) calendar days notice to the affected employee.

#### D. Job-Sharing/Part-Time Requests

Employees may request to participate in job-sharing or become permanent part-time employees. Such requests are to be presented to the employee's immediate supervisor and the appointing authority. The Department of Human Resources voluntary transfer list may also be utilized by employees, especially those interested in job-sharing or permanent part-time positions in other departments.

#### E. Work Scheduling

## ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

The Appointing Authority may, in its sole discretion, implement and/or grant alternative work schedules. The decision to continue such alternative work schedule shall be based on operational necessity and may be cancelled by the Appointing Authority at any time. This provision shall not be subject to the grievance procedure.

In the event the Department decides to abolish, establish, or change alternate work schedule programs, the Department shall inform the affected employees at least ten (10) calendar days prior to taking such action.

### Section 2. Overtime Work and Compensation

- A. This Section is intended only to provide the basis for the calculation of and payment for overtime and shall not be construed as a guarantee of hours of work per day or per pay period.
- B. Full-time employees' overtime is authorized or ordered work, actually worked by an employee, which is in excess of the employee's regularly scheduled work period. No full-time employee will be paid overtime unless he/she works more than eighty (80) hours in any work period. When a mutually-agreeable irregular work schedule is adopted as the employee's routine work schedule, and such schedule results in the employee working more, or less, than forty (40) hours in a week, but which schedule totals eighty (80) hours in a biweekly pay period, the hours worked in the weeks which exceed forty (40) hours shall not be considered overtime. When the appointing authority establishes a work schedule which results in the employee working more than eighty (80) hours in a work period, the hours actually worked in the work period which exceed eighty (80) hours but are less than eighty-five (85) hours shall be considered straight time overtime; hours actually worked in the work period which exceed eighty-five (85) hours shall be considered time and one-half overtime and shall be paid at time and one-half.

Permanent part-time employees' overtime is authorized or ordered work, actually worked by an employee, which is in excess of eighty (80) hours per work period. When a mutually-agreeable irregular work schedule is adopted as the employee's routine work schedule, and such schedule results in the employee working more, or less, than forty (40) hours in a week, but which schedule totals eighty (80) hours in a biweekly pay period, the hours worked in the weeks which exceed forty (40) hours shall not be considered overtime.

When the appointing authority establishes a work schedule which results in the employee working more than eighty (80) hours in a work period, the hours actually worked in the work period which exceed eighty hours shall be considered overtime.



## ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

Prior authorization of the employee's immediate supervisor shall be required to the extent feasible prior to overtime work. Absent prior authorization to work overtime, the employee shall provide justification for:

1. Not receiving prior authorization, and
2. The need for overtime work.

Notwithstanding any other policy, practice, rule, regulation or Memorandum of Agreement provision to the contrary, any absence including, but not limited to, paid sick leave, leave without pay, bereavement leave, vacation, holiday, jury duty, reporting for a draft board, compensatory time off for the investigation, preparation or presentation of a grievance, or other release time granted for an employee to engage in lawful employee organization activity, or unpaid work furlough or any other paid or unpaid time off which may be infrequent, sporadic or unpredictable, shall not be counted as hours actually worked during a work period when establishing eligibility for any type of overtime compensation.

Computation of overtime shall be based on the employee's regular rate of pay. This hourly rate shall include the base rate for the employee's classification plus all differentials or bonus rates to which the employee would be entitled for the overtime work performed.

Compensation is defined as either cash payment or compensatory time off, or a combination of cash payment and compensatory time off, in accordance with the overtime code established for the employee's class. Employees shall have their overtime hours computed as follows:

Actual work performed in excess of eighty (80) hours to a maximum of eighty-five (85) hours in a work period shall be compensated with cash or compensatory time off at a straight time rate.

1. Code "D" Employees are eligible for cash or compensatory time off at one and one-half (1 ½) time rate for each hour of overtime actually worked over eighty-five (85) hours in a work period.
2. All employees are eligible for a minimum of three (3) hours call-back overtime at time and one-half cash (4 ½ hour pay).

As provided for each classification in the Appendix of this Agreement.

The decision to pay for overtime worked in cash or compensatory time off shall be at the discretion of the District Attorney.

## ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

The appointing authority for classes designated DI or DM in the Appendix to this Agreement may approve the payment of cash in lieu of compensatory time off at the regular hourly rate for the overtime hours actually worked in the work period which exceed eighty (80) hours but are less than eighty-five (85) hours for any portion of an employee's accumulated compensatory time that has been on the employee's accumulated leave balance for more than thirty (30) days.

### C. Accrual of Compensatory Time Off

When an employee is allowed to accumulate compensatory time off, such accrual shall be limited to a maximum of one hundred twenty (120) hours at the beginning of a biweekly pay period. If an employee has already accumulated one hundred twenty (120) hours of compensatory time off, the District Attorney has the option to allow an employee to accumulate compensatory time off in excess of one hundred twenty (120) hours to but not more than a maximum of one hundred sixty (160) hours accumulated compensatory time off. Employees, who have accumulated compensatory time off balances that exceed one hundred sixty (160) hours, shall be paid cash for overtime hours actually worked.

Employee will be given the opportunity to take off accumulated compensatory time before exceeding one hundred sixty (160) hours or having their accumulation reduced. When granting compensatory time off, the appointing authority will give consideration to the desires of the employee.

An employee shall have fifteen (15) working days advance notice before being required to take compensatory time off. This fifteen (15) day notice shall not apply to departments headed by elected appointing authorities unless approved by said elected appointing authorities.

Employees who are laid off shall receive compensation for unused compensatory time earned after April 15, 1986 for time actually worked. (See Article 10, Section 5 (I) - "Cash in Lieu of Compensatory Time Off"). Such compensation shall not exceed one hundred sixty (160) hours.

### Section 3. Call-Back Work

- A. Call-back work is work required of an employee who, following completion of the employee's work day and departure from the employee's work site, is ordered to report back to duty to perform necessary work. To qualify for this call-back provision, an employee must leave the place from which the employee is called and actually report to a work site. Neither changes in a shift or work schedule when at least fifteen (15) hours advance notice is given, nor service performed on a regular standby shift, or from a voluntary listing on an available list (Section 5), shall constitute call-back work. An employee who is called back, as defined

#### ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

above, shall receive a minimum of three (3) hours time and one-half pay. Actual work performed in excess of three (3) hours and not part of a regular work shift shall be compensated as overtime if the employee has actually worked more than eighty (80) hours inclusive of call-back work, in the work period. Upon mutual agreement between the employee and the appointing authority, hours actually worked as call-back may be used to delay the start of the next work day.

- B. An employee contacted by the department during his/her off duty hours and required to perform services without leaving the place of contact, shall receive compensation for such time worked in the same manner such employees receive scheduled overtime compensation. To be eligible for such compensation, employees must be authorized and ordered by the department to perform such services.
- C. Call-back shall also include an order to appear before a court where the employee is representing the County and not on his/her regular shift.
- D. Employees called back to duty shall, except for emergency situations, be given eight (8) hours rest in the twenty-four (24) hour period which began at the start of their last normal shift. When an employee's next normal shift must be rescheduled to provide this eight (8) hours rest, non-routine shift change premium shall not be applicable.
- E. Additional Assignment While on Call-Back. An employee who is contacted while serving a call-back (as defined above) and is called to another site for additional duties, shall not be compensated for a second or subsequent call-back for this assignment. However, if the employee has left the work site, or sites, and is actually returning, or has returned, to his/her original point of contact, and is then called back again, the employee shall be compensated for an additional call-back.

#### Section 4. Standby Duty Compensation

##### A. Standby Duty Defined

Standby duty means that an employee is assigned to specific hours outside the normal workweek assignment, during which the employee must remain where such employee can be contacted, ready for immediate return to work to perform an essential service.

##### B. Standby Positions Designated

The Chief Administrative Officer must approve the designation of all Standby positions.

## ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

C. Standby duty shall not count as time worked, except to the extent that an employee is required to, and does actually return to a work place and perform actual service. Employees assigned to standby shall not be entitled to call-back work compensation, unless otherwise provided under the call-back provisions.

### D. Standby Compensation

Employees shall be paid the equivalent of one (1) hour's compensation for each normal standby shift, provided such shift is not longer than the employee's normal workday. A normal workday is defined as at least eight (8) hours. Standby compensation shall be made for only those employees occupying positions designated as Standby in accord with Section 4 (B) hereof.

## Section 5. Available Time

A. Available Time Defined. Available time means that an employee has requested consideration for hours of work in addition to his/her routine work schedule during which such employee can be contacted by telephone for an immediate return to work to perform an essential service.

B. Available time shall not count as time worked, except to the extent that an employee is required to, and does actually return to a work place and perform actual service.

## Section 6. Temporary Assignment Compensation

When the appointing authority determines it is necessary to cover a position from which the incumbent is absent, or which is temporarily vacant for any reason, the appointing authority may assign an employee in a lower class to temporarily perform the duties of the vacant position in a higher class in accordance with the following:

A. The Director, Department of Human Resources, has approved the appointing authority's request for temporary assignment prior to the assignment being made.

B. The employee proposed to be assigned to the higher class is qualified to perform the duties of the higher class.

C. The employee will remain in his/her current class during the time he/she is assigned to perform the duties of the higher class.

D. The assignment must be for over four (4) weeks but must not exceed twenty-six (26) weeks.

## ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

- E. The employee so assigned shall be paid a bonus rate which shall be the difference between the step rate of compensation of his/her current class and that of the equivalent step rate of compensation of the temporarily vacant class.

### Section 7. Bilingual Premium

Compensation for Bilingual Ability. Upon assignment to a position which has been determined to require bilingual skills, a qualified employee is entitled to receive bilingual premium. In order to ensure an adequate level of bilingual proficiency, the Civil Service Commission may require periodic evaluation of incumbents receiving bilingual premium.

Class A: The rate for Class A bilingual skill is \$32.30 biweekly; \$0.40375 per hour for eighty (80) hours of paid service - thereafter, the FLSA regular rate for overtime shall apply. To qualify for this rate, the employee must be assigned to a position designated as requiring bilingual skills fifty percent (50%) or more of the time or forty (40) hours or more in an eighty (80) hour biweekly pay period or to a position designated as requiring technical bilingual skills (reading, writing, translation). This fifty percent (50%) usage requirement shall mean the actual time spent conversing or interpreting in a second language.

Class B: The rate of Class B bilingual skills is \$16.15 biweekly; \$0.20875 per hour for eighty (80) hours of paid service - thereafter, the FLSA regular rate for overtime shall apply. To qualify for this rate, the employee must be assigned to a position designated as requiring bilingual skills less than fifty percent (50%) of the time or thirty-nine (39) hours or less in an eighty (80) hour biweekly pay period. This fifty percent (50%) or less usage requirement shall mean the actual time spent conversing or interpreting in a second language.

Employees assigned to positions June 29, 1979 or after shall receive either Class A or Class B bilingual premium, as appropriate.

For purposes of terminal pay, bilingual premium shall not be computed in the employee's base wage rate.

### Section 8. Education Bonus

Permanent employees designated as DI or DM who possess, based on level of proficiency demonstrated by the acquisition of certificates issued by the California Commission on Peace Officers' Standards and Training (P.O.S.T.), an Advanced P.O.S.T. certificate shall be compensated at seven and one-half percent (7½%) above

ARTICLE 5: HOURS OF WORK, PREMIUMS AND BONUSES (Cont'd)

the base hourly wage rate established for their designated classification in the Appendix.

## ARTICLE 6: PAID LEAVES

### ARTICLE 6. PAID LEAVES

#### Section 1. Holidays and Holiday Compensation

The County shall observe the following holidays:

1. Independence Day shall be observed on July 4
2. Labor Day, First Monday in September
3. Veterans Day, November 11
4. Thanksgiving Day, Fourth Thursday in November
5. Day after Thanksgiving, Fourth Friday in November
6. Christmas Day, December 25
7. New Year's Day, January 1
8. Martin Luther King, Jr. Day, Third Monday in January
9. Presidents' Day, Third Monday in February
10. Cesar Chavez Day, March 31
11. Memorial Day, Last Monday in May
12. Floating Holiday - in lieu of Columbus Day
13. Floating Holiday - in lieu of Lincoln's Birthday

In addition, any other day of national mourning or celebration provided that it has been proclaimed by the Board of Supervisors, and provided that the Board directs the closure of all County offices for public service which are normally closed on holidays. Any such holiday shall be granted only to those employees who are regularly scheduled to work on the day for which such holiday is proclaimed by the Board.

#### A. Floating Holidays

Employees who are employed, and not on authorized or unauthorized leave without pay, on a floating holiday, shall be entitled to 1/10th the employee's regularly scheduled biweekly hours, not to exceed eight (8) hours of holiday time. This time is to be taken in one (1) increment on a day agreeable to both the employee and the appointing authority. These days shall not be considered holidays for payroll purposes.

An employee may accumulate a maximum balance of twenty-four (24) hours of floating holiday time. Any balance in excess of 24 hours of floating holiday time will automatically be reduced to the 24 hours maximum accrual limit.

#### B. Eligibility for Holidays

Only employees paid at a biweekly rate are entitled to paid holidays. Employees who are on paid status the entire work day before as well as the entire work day after a holiday shall receive compensation for eight (8) hours of holiday time,

## ARTICLE 6: PAID LEAVES (Cont'd)

which time shall be considered as hours worked. Permanent part-time employees' compensated holiday time shall be equivalent to one-tenth (1/10<sup>th</sup>) the number of regularly scheduled hours in that employee's biweekly pay period during which the holiday occurred.

### C. Compensation for Holidays Worked

1. For working a holiday, employees working in a class designated to receive cash payment for overtime at one and one-half times their hourly rate, or in a class eligible to receive overtime premium compensation, shall earn, for each hour of the holiday worked, compensatory time off equivalent to the number of hours actually worked but not to exceed one-tenth (1/10<sup>th</sup>) the number of hours in that employee's normal biweekly pay period. In addition, such employees shall receive cash compensation at one-half time rate for the number of hours compensatory time off was earned.
2. For working on a holiday, those employees in a class not designated pursuant to paragraph (1) shall earn compensatory time off equivalent to the number of hours actually worked but not to exceed one-tenth (1/10<sup>th</sup>) the number of hours in that employee's normal biweekly pay period.

### D. Holiday Occurring on a Scheduled Day Off

Except for holidays occurring on a Saturday or Sunday, if a holiday falls on an employee's regularly scheduled day off, the employee will receive the equivalent of one-tenth (1/10<sup>th</sup>) the number of regularly scheduled hours in the employee's biweekly pay period. Sunday holidays will be observed on Monday. Saturday holidays will be observed on Friday.

### E. Court Holidays

The purpose of this provision is to achieve consistency in the scheduling of holidays in the District Attorney's Office and the courts with those holidays observed by the courts and shall not be construed to provide greater or lesser compensation for, or number of holidays than received each fiscal year by employees assigned to work in other County departments.

1. Employees in the District Attorney's Office shall receive those specific holidays observed by the courts even if these holidays are not observed by other County offices and departments; and
2. Employees in the District Attorney's Office shall not receive any holiday observed by County offices and departments which is not also observed by the courts.



## ARTICLE 6: PAID LEAVES (Cont'd)

### F. Use of Leave on Employee's Birthday

Employees will be allowed to use accrued compensatory time off or accrued vacation time on their birthday, if their individual workloads permit.

## Section 2. Vacation

Vacation is paid time off earned by eligible employees.

### A. Eligibility

To earn vacation credit, or become entitled to take vacation, an employee must be paid at a biweekly rate.

Where the rate of pay of an employee is changed to an hourly, per diem, per clinic, per license issued or any other rate of pay other than a biweekly rate, such employee shall not be entitled to any vacation and shall discontinue earning vacation credit. Such employee shall be paid the monetary value of all his/her unused vacation credit and for any vacation earned but not yet credited to him/her at the time of the change in his/her rate of pay.

An employee's vacation earned becomes available for use as it is accrued, and may be used in payroll period following the payroll period in which it was earned. However, no vacation credits shall be eligible for terminal payment until the employee has completed a minimum of one (1) year (12 months) of continuous paid service in his/her current employment.

### B. Earnings

Eligible employees earn vacation credit as follows:

<b>Years of Continuous Service During Present Employment</b>	<b>Vacation Credit For Each Hour of Regularly Scheduled Paid Service</b>	<b>Hour/Day Approx. Equivalent For Full-Time Employees Over One Year (26 Biweekly Pay Periods)</b>
Less than 5	3.846% of working hr.	80 hrs/10 work days
5 to 15	5.769% of working hr.	120 hrs/15 work days
15 or more	7.692% of working hr.	160 hrs/20 work days

The rate of earned vacation shall be changed at the beginning of the pay period following entitlement to such change. Vacation credit is accrued and may be used in tenths of hours.

## ARTICLE 6: PAID LEAVES (Cont'd)

When an employee is reinstated after layoff or disability retirement, the continuous service date held immediately prior to the layoff or disability shall be used for vacation computation.

Paid holidays immediately preceding, immediately following or wholly within the vacation period shall not be charged as vacation except that when the eligible employee is paid the monetary value of vacation or granted pre-retirement terminal vacation such paid holidays shall be charged as vacation.

### C. Granting Requests, Schedules

The appointing authority determines the time and duration of vacation taken by the employee. Therefore, the advance consent of the appointing authority is required to be obtained by an employee prior to using vacation.

Vacation schedules shall be arranged with particular regard to the needs of the service, and, so far as possible, with the wishes of the employee.

### D. Maximum Allowable Accumulation

1. The balance of an employee's vacation credits of record (including vacation earned but not credited), hereinafter "accumulation", shall not exceed an amount equal to twice the annualized current vacation earnings rate of the employee or of the vacation credits designated as the employee's "High Water Mark" effective November 17, 2000. This is the employee's "Maximum Balance."
2. In any payroll period, an employee shall earn vacation equal to the lesser of:
  - a. The earnings specified in Section "B" above; or,
  - b. The amount of earnings necessary which, when added to the employee's existing accumulation, will cause the accumulation to equal the employee's Maximum Balance.
3. If, at the end of any payroll period, an employee's accumulation equals or exceeds the employee's Maximum Balance, no vacation credits shall be earned by the employee for that payroll period.
4. Employees whose vacation accumulation exceeds their Maximum Balance on the effective date of this agreement will not have the excess credits removed except through normal usage (including Catastrophic Leave donations), pay down in accordance with Section 2.E. below, pay off in accordance with Section 2.F. or 2.G. below, or adjustment required to correct an error.

#### ARTICLE 6: PAID LEAVES (Cont'd)

5. The County shall notify employees who have reached eighty percent (80%) of their Maximum Balance.

#### E. Vacation Credit Paydown

An appointing authority may authorize a portion of an employee's vacation credits to be converted to a cash payment under the following circumstances:

1. The employee's vacation balance has exceeded an amount equal to eighty percent (80%) of his/her Maximum Balance; and
2. The employee is, or imminently will be, forgoing vacation credit accruals due to reaching the Maximum Balance; and
3. The employee has used one-half (50%) of his/her authorized annualized vacation accrual for the period inclusive of payroll 07 of the previous fiscal year and payroll 06 of the current fiscal year; and
4. The employee has requested, and been denied, use of vacation prior to reaching his/her Maximum Balance.
5. The paydown shall be limited to a maximum amount of four thousand dollars (\$4,000) per fiscal year, which will leave a remaining balance of no less than seventy-five percent (75%) of the Maximum Balance.
6. When an employee is to be paid or credited the monetary value of vacation, such compensation shall be made on the basis of the employee's basic rate of pay at that time plus those applicable premiums or bonuses which are being paid as part of the employee's hourly rate at the time of separation exclusive of any biweekly fixed dollar amount premiums and any other premiums specifically identified as excluded from terminal payout.

#### F. Injury Leave (California Labor Code Section 4850) Exception

Notwithstanding Section E (3) above, an employee who is on injury leave as defined in Section 5 below for a period of six (6) months or more within the last twelve (12) month period and the employee is, or imminently will be, foregoing vacation credit accruals due to reaching the Maximum Balance, may have vacation credits converted to a cash payment as described in Section E above.

#### G. Vacation Credits at Separation from County Service

At the time an employee is separated from the County service, the monetary value of all vacation entitlement shall be paid. An employee retiring from County

## ARTICLE 6: PAID LEAVES (Cont'd)

service may be granted a terminal vacation in lieu of being paid its monetary value. An employee on terminal vacation shall not earn any vacation credit.

When an employee is to be paid or credited the monetary value of vacation, such compensation shall be made on the basis of the employee's basic rate of pay at that time plus those applicable premiums or bonuses which are being paid as part of the employee's hourly rate at the time of separation exclusive of any biweekly fixed dollar amount premiums and any other premiums specifically identified as excluded from terminal payout.

### Vacation Credits

All employees shall participate in the County's Terminal Pay Plan (Plan). However, only the terminal paychecks (including unused vacation) of those employees who have reached the age of 55 shall be placed into the Plan. These terminal paychecks shall be placed in to the Plan on a pre-tax basis in accordance with the Plan, all applicable laws and all rules and regulations applicable to the Plan.

## H. Anti-Terrorist Campaign Leave Exceptions

An employee who is on Anti-Terrorist Campaign Leave in support of Operation Enduring Freedom and is, or imminently will be, foregoing vacation credit accruals due to reaching the Maximum Balance, may have vacation credit accruals converted to cash payment as described in Section E above and notwithstanding subsection 3 and subsection 4 with the approval of the appointing authority and the Director of Human Resources.

## Section 3. Bereavement Leave

Bereavement leave is paid leave which is available to an employee at the time of death or funeral of a member of the employee's immediate family as defined below.

### A. Eligibility

Only biweekly rate employees on paid status shall be eligible for paid bereavement leave.

### B. Amount of Leave

Bereavement leave shall not exceed three (3) work days for the death of a member of the employee's immediate family. Also, an employee shall be entitled to use two (2) days of sick leave as bereavement leave.

## ARTICLE 6: PAID LEAVES (Cont'd)

### C. Immediate Family

Immediate family includes husband, wife, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, grandmother, grandfather, grandchild, parent, stepparent, mother-in-law, father-in-law, or any person serving as a parent, or who has served as a parent, or any other close person living in the same household as the employee.

### Section 4. Sick Leave

Sick leave is paid leave earned and granted to an eligible employee for absences from work caused by personal illness or injury, for emergency or routine medical or dental appointments, and for reasonable travel time to and from health care facilities. An employee who is incapacitated for work because of pregnancy may be granted sick leave upon presentation of satisfactory evidence from a physician verifying the incapacity.

An employee may also be granted up to a maximum of sixty (60) hours of paid sick leave in a twelve-month period for the purpose of caring for a member of his/her immediate family (as defined in paragraph C. below) who is ill or injured. In addition, if the employee requests paid sick leave in excess of sixty (60) hours in order to care or arrange care for a member of his/her immediate family who is critically or terminally ill, additional sick leave is available to the employee when granted by the appointing authority upon receipt of satisfactory verification from a physician.

### A. Eligibility

Employees eligible to earn sick leave are those employees who are paid at a biweekly rate, and who have regularly scheduled paid service of not less than one-half of the standard eighty (80) hour pay period.

### B. Earnings

Eligible employees shall earn sick leave credit at the rate of five percent (5%) of the employee's regularly scheduled hours per pay period. The hour/day approximate equivalent sick leave accrual for full-time employees over one year (26 pay periods) is one hundred four (104) hours, or thirteen (13) days. Sick leave is credited in units of one-tenth ( $1/10^{\text{th}}$ ) of one hour, up to a maximum of four (4) hours, at the beginning of the pay period following the one in which it was earned.

Paid holidays immediately preceding, immediately following, or wholly within the period for which sick leave is granted shall not be regarded as part of such period of sick leave.

## ARTICLE 6: PAID LEAVES (Cont'd)

### C. Definition of Immediate Family

Immediate family includes husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, stepparent, or any person serving as a parent, or who has served as a parent, or any other person living in the same household as the employee.

### D. Use of Sick Leave

Sick leave is available the first day of the pay period following the pay period in which it was earned, and is taken in units of one-tenth ( $1/10^{\text{th}}$ ) of one (1) hour. Use of sick leave is subject to the approval of the appointing authority. Upon request of an employee, the appointing authority may allow the substitution of twenty-four (24) hours of sick leave for paid vacation, provided the employee furnishes a doctor's statement or other satisfactory evidence that the employee was ill or injured for twenty-four (24) or more consecutive hours.

### E. Request for Sick Leave

Each request for sick leave shall set forth the reasons for the request and such further information as may be required. Each request for more than forty (40) consecutive hours of sick leave shall be accompanied by a doctor's verification or other evidence satisfactory to the appointing authority which demonstrates the employee's incapacity to return to work or necessity to be absent. A request because of the death of a member of the employee's immediate family will not require such verification.

Upon request of the appointing authority, an employee shall be required to provide the above-described verification of the proper use of sick leave at any time prior to the expiration of forty (40) consecutive hours, if the appointing authority has cause to require such earlier verification and has so informed the employee prior to or during the employee's absence.

### F. Sick Leave Incentive

Conversion of Sick Leave Credits to Retirement Service Credit: Upon retirement, deferred retirement, disability retirement from County service, or death, an eligible employee's sick leave balance may be converted into retirement service credits subject to the rules and regulations of the San Diego County Retirement Association, provided that:

1. The employee has completed ten (10) or more years of continuous service during that employee's present employment; and

## ARTICLE 6: PAID LEAVES (Cont'd)

2. The employee's sick leave balance totals three hundred (300) hours or more; and therefore,
3. Employees with ten (10) or more years of service may convert one hundred percent (100%) of their total sick leave credits.

### G. Compensation for Unused Sick Leave

1. Employees who enter County service after July 1, 1979, shall not be eligible for compensation for any of their unused sick leave credits.
2. An employee with ten (10) or more years of continuous service during that employee's present employment who retires, voluntarily terminates, dies, discontinues earning sick leave credits by reason of that employee changing from being paid at a biweekly rate, is elected to County office, or is laid off, shall be paid twenty-five percent (25%) of that employee's accumulated sick leave credits. An employee who received such compensation shall have no right to restoration of any sick leave credit upon return to County service.
3. Employees who earned County service prior to July 1, 1979, and in accordance with the above provisions, shall be compensated for their unused sick leave credits as determined by the following payout ranges:

\$ 11,001	to	\$ 12,000
10,001	to	11,000
9,001	to	10,000
8,001	to	9,000
7,001	to	8,000
6,001	to	7,000
-0-	to	6,000

Cash payout for unused sick leave credits shall not exceed the upper limit of the range at which the employee's unused credits lie as of June 28, 1979.

### 5. Sick Leave

All employees shall participate in the County's Terminal Pay Plan (Plan). However, only the terminal paychecks (including sick leave) of those employees who have reached the age of 55 shall be placed into the Plan. These terminal paychecks shall be placed in to the Plan on a pre-tax basis in accordance with the Plan, all applicable laws and all rules and regulations applicable to the Plan.

## ARTICLE 6: PAID LEAVES (Cont'd)

### H. Calculation of Compensation for Unused Sick Leave

When an employee is paid the monetary value of sick leave as provided above, such compensation shall be calculated on the employee's basic rate of pay at that time plus those applicable premiums or bonuses which are being paid as part of the employee's hourly rate at the time of separation exclusive of any biweekly fixed dollar amount premiums and any other premiums specifically identified as excluded from terminal payout. Such calculation shall not include any increase in pay which would have occurred had the sick leave been granted, nor shall it include payment for any holidays.

### I. Cancellation and Restoration of Sick Leave Credits

1. An employee's sick leave credits shall be canceled, subject to 2. below, upon separation from County Classified Service, or upon changing from a biweekly rate to other than biweekly rate of pay.
2. Employee sick leave credits accrued at time of separation, and which have not been subject to payout, shall be restored under the following conditions:
  - a. An employee returns to duty within three (3) years after separation because of layoff or disability retirement; or
  - b. An employee returns to duty within twelve (12) months following separation from temporary or seasonal employment; or
  - c. To the extent that recovery is made by the County either through Workers' Compensation Act benefits or claim against a responsible third party, of compensation, including any salary, vacation, sick leave and retirement credits paid an employee during absence on sick leave. Restored credits shall be computed on the basis of the employee's wage rate granted as sick leave during the time of absence. Credits shall be restored in full hour units with fractions of an hour disregarded.

### Section 5. Injury Leave

Injury leave shall be subject to the provisions of California Labor Code § 4850.

### Section 6. Court Leave (Jury Duty)

Court leave is paid leave granted by the County to an eligible employee to enable that employee to fulfill his/her duty as a citizen to serve as a juror, or as a prospective juror, or to serve as a witness in a court action to which the employee is not a party, before a



## ARTICLE 6: PAID LEAVES (Cont'd)

Federal, Superior, Justice or Municipal Court located within San Diego County or within the employee's county of residence.

### A. Eligibility

Only a biweekly employee who has received an order from a court is eligible for court leave. Court leave is not granted when the employee is paid an expert witness fee or when attendance is part of the employee's official County duties.

### B. Court Leave Shall be Limited to:

1. Required attendance before Federal, Superior, Municipal and Justice Courts located within San Diego County.
2. Time in attendance at court together with reasonable time between court and work if attendance is for less than a full day and the employee can reasonably be expected to return to work.

## Section 7. Educational Leave

An employee may receive paid leave to attend courses, seminars, workshops or conventions that enhance, improve or add to the knowledge, skills and performance in the employee's County position.

The determination as to when and whether an employee is granted this leave shall be made by the employee's appointing authority; however, such approval shall not be unreasonably withheld. Request for such leave will be submitted in the manner prescribed by the employee's appointing authority.

## Section 8. Military Leave

### A. General Provisions

Any employee who is or becomes a member of the Armed Services, Militia or Organized Reserves of California or the United States shall be entitled to the leaves of absence and employment rights and privileges provided by the Military and Veterans Code of the State of California.

### B. Review and Approval

Every military leave shall be subject to review and approval by the Director, Department of Human Resources.

## ARTICLE 6: PAID LEAVES (Cont'd)

### C. Request for Military Leave

Employees who have been ordered to military service must submit notice (either orally or in writing) of their need for leave. Employees must provide 30 days advance notice of the need for the leave if practicable.

## Section 9. Appeal of Disputes: Paid Leaves

Unless otherwise specifically provided for in this Article, any disputes which arise concerning the application or interpretation of the paid leave provisions of this Agreement shall have recourse to the Grievance Procedure herein and shall not be appealable to the Civil Service Commission.

## Section 10. Administrative Leave

### A. Definition

Administrative leave means the employee's non-disciplinary paid absence from duty imposed by the appointing authority under specified conditions.

### B. Eligibility

Biweekly rate employees shall be eligible to receive administrative leave.

### C. Conditions

The appointing authority may direct an eligible employee to take administrative leave only if there is the occurrence, or the likelihood for the occurrence of, emergency or extraordinary circumstances which satisfy either one or both of the following two conditions:

1. The employee must be immediately removed from the County work site to avert harm to the County (including unauthorized destruction or removal of any property or records of the County), the public, other County employees, or the employee himself or herself, and that such circumstances are sufficiently unclear to make a final determination without an investigation of whether the employee contributed or may contribute to such harm.
2. The employee must be removed from the County work site to insure the conduct of a full, fair and complete investigation of such emergency or extraordinary circumstances.

## ARTICLE 6: PAID LEAVES (Cont'd)

### D. Ineligibility

Notwithstanding subsections (B) and (C) above, the employee shall not be eligible to be placed on administrative leave if:

1. The appointing authority is able to avert the occurrence of the circumstances specified under subsections (C) (1) or (C) (2) above, by reassigning the employee to other duties or to a different work site within the department; or
2. The employee agrees to take accumulated paid leave time off at the request of the appointing authority; or
3. The emergency or extraordinary circumstances, referenced under subsection (C) above, are, as a result of the Skelly hearing, sufficiently clear to indicate that the employee's conduct has caused such circumstances and that such conduct constitutes grounds for immediate suspension or termination pursuant to Rule VII of the County of San Diego Civil Service Rules.

### E. Procedures

1. The appointing authority shall provide the employee written notice of the administrative leave, its effective date and duration, and the reasons for placing the employee on such leave. A copy of this notice shall be sent to the Director and the Payroll Division of the Auditor and Controller.
2. The appointing authority shall commence an investigation of the emergency or extraordinary circumstances not later than one working day following the date of the written notice of administrative leave to the employee. The appointing authority may commence such investigation prior to the date of the written notice.
3. If prior to the end of the administrative leave period (as specified in the written notice to the employee), the appointing authority determines that the employee's absence is no longer essential, the appointing authority shall notify the employee that administrative leave is no longer authorized effective the next working day and direct the employee to return to duty on such date. Such notice must be memorialized in writing which shall be provided to the employee upon the employee's return to duty. A copy of this notice shall be sent to the Director and the Payroll Division of the Auditor and Controller.

## ARTICLE 6: PAID LEAVES (Cont'd)

### F. Duration

1. Administrative leave may be authorized for up to ten (10) working days for each separate and distinct set of emergency or extraordinary circumstances as set forth under subsection (C) above. Administrative leave may be extended for additional working days if more time is needed to complete the investigation, subject to the approval of the Director. The employee shall be notified of any extension of the administrative leave. Such notice must be memorialized in the form of written notice which shall be sent by first class mail to the employee prior to the extension of the administrative leave. A copy of this notice shall be sent to the Director and the Payroll Division of the Auditor and Controller.
2. The duration of administrative leave, including any extension thereof, shall not continue beyond the day the appointing authority determines, based upon the investigation of the facts and circumstances, that the employee's absence from the County work site is no longer essential.
3. At the end of the authorized administrative leave, the employee shall return to duty, unless:
  - a. Other forms of authorized leave are approved by the appointing authority; or
  - b. A final order of suspension or termination against the employee has been implemented.

### Section 11. Catastrophic Leave Program

Vacation credits may be transferred from one or more employees to another employee, on an hour-for-hour basis, in accordance with departmental policies upon the request of both the receiving employee and the transferring employee and upon approval of the employee's appointing authority, under the following conditions:

- A. The receiving employee is required to be absent from work due to injury or the prolonged illness of the employee, employee's spouse, parent, or child, has exhausted all earned leave credits, including but not limited to sick leave, compensatory time and holiday credits, and is therefore facing financial hardship.
- B. The transfers must be for a minimum of four (4) hours and in whole hour increments thereafter.
- C. Transfers shall be allowed to cross-departmental lines in accordance with the policies of the receiving department.

## ARTICLE 6: PAID LEAVES (Cont'd)

- D. The total vacation credits received by an employee shall normally not exceed five hundred twenty (520) hours; however, if approved by his/her appointing authority, the total vacation credits may be up to one thousand forty (1040) hours. Total vacation credits in excess of one thousand forty (1040) hours will be considered on a case-by-case basis by the appointing authority subject to the approval of the Chief Administrative Officer.
- E. The transfers are irrevocable, and will be indistinguishable from other vacation credits belonging to the receiving employee. Transfers will be subject to all taxes required by law.
- F. Transfers shall be administered according to the rules and regulations of the Auditor and Controller, and made on a form prescribed by the Auditor and Controller. Approvals of the receiving and donating employee, the donating employee's appointing authority and the receiving employee's appointing authority (in the case of an interdepartmental transfer) will be provided for on such form.
- G. This program is not subject to the Grievance Procedure of this Agreement.

## ARTICLE 7. UNPAID LEAVES

### Section 1. Leave of Absence Without Pay

A permanent employee may be granted unpaid leave either with the right to return or without the right to return. Prior to receiving any unpaid leave, an employee must exhaust all his/her vacation, compensatory time, and, if the leave without pay is for illness, all sick leave, before leave without pay can begin. Exception: No paid leave of any kind will be granted to an employee who is on suspension as discipline.

#### A. Leave Without Pay with Right to Return

If leave with right to return is granted, after such leave the employee shall be entitled to return to the same class in the same department as was occupied at the commencement of the leave.

At the discretion of the appointing authority, an employee may be granted:

1. Leave without pay for a maximum of sixty (60) work days.
2. Leave without pay to accept a temporary appointment (includes provisional appointments) to a classified or unclassified position in a County department. Such leaves shall be for a maximum of twenty-six (26) biweekly pay periods. The employee shall not be required to exhaust

## ARTICLE 7: UNPAID LEAVES

all his/her vacation and compensatory time before commencing this type of leave.

An employee granted leave without pay pursuant to this provision if not offered an opportunity to return to the same class of position in the same department at the expiration of such leave, shall be provided additional leave until a position in his/her class and department is made available to him/her, provided that such employee shall have a right to the first vacancy in his/her class and department which occurs during such additional leave, and provided further that such additional leave shall not exceed twenty-six (26) biweekly pay periods.

3. Leave without pay when certified by a medical doctor to be unable to perform the duties of the employee's position. Such leave shall be for the duration of the disability but not to exceed one year. However, if an employee is unable to return to work at the end of one year, the employee shall be placed on leave without pay without right to return for a maximum of one (1) year as provided in B. below.

At the discretion of the appointing authority, and approval of the Director, Department of Human Resources, an employee may be granted:

4. Leave without pay for good cause, other than illness, up to twenty-six (26) biweekly pay periods. Such leaves may be extended a maximum of twenty-six (26) biweekly pay periods by the Director if circumstances warrant.

### B. Leave Without Pay Without Right of Return

If leave without pay without right of return is granted, after such leave, the employee shall have no entitlement to return to the same class in the same department as he/she occupied at the commencement of the leave.

The Director, Department of Human Resources may, with proper justification, grant a leave without pay without right to return for a maximum of twenty-six (26) biweekly pay periods.

An employee granted leave without pay pursuant to this provision, if not offered an opportunity to return to the same class of position in the same department at the expiration of such leave, shall be provided additional leave until a position in his/her class and department is made available to him/her and provided further that such additional leave shall not exceed twenty-six (26) biweekly pay periods. Any employee who is not returned to County employment at the expiration of the initial leave without pay and who is not returned to County employment within the

## ARTICLE 7: UNPAID LEAVES (Cont'd)

next succeeding twenty-six (26) pay periods shall be deemed to be absent without leave.

### C. Leave Without Pay - Staff to Elected Official

The Director, Department of Human Resources, may grant a leave without pay to a classified employee for an indefinite period of time to accept an unclassified position as staff to an elected official. This leave may be either with or without the right to return. The employee shall not be required to exhaust all his/her vacation and compensatory time before commencing this type of leave.

### D. Cancellation of Leave Without Pay

If an employee violates the conditions upon which leave without pay is granted, the Director, Department of Human Resources, may cancel said leave. In such instances, the employee may be deemed to have resigned on the date designated by the Director.

### E. Denial of Leave

Any question arising out of the denial of leave without pay shall be decided by the Director, Department of Human Resources.

### F. Return to Work

Any question arising over the right of the employee to County employment following leave without pay shall be decided by the Civil Service Commission.

## Section 2. Voluntary Furlough

### A. Short Term

Notwithstanding any other provisions of this Article, the appointing authority, on approval of the Chief Administrative Officer, for good cause may, upon request of an employee, grant a permanent or probationary employee a voluntary leave of absence without pay with right of return to the same position subject to the following conditions:

1. Leave must be taken in increments of one full regular workday for the eligible employee (e.g., 8, 9, 10, or 12 hours).
2. Such leave shall be available only during a period or periods of time designated by the Board of Supervisors as times of economic hardship.

#### ARTICLE 7: UNPAID LEAVES (Cont'd)

3. The amount of leave time taken during the period authorized by the Board of Supervisors shall not exceed the total number of hours in one regular pay period for the eligible employee.
4. Credits toward sick leave, vacation, and holiday eligibility shall accrue as though the employee were on paid status.
5. Time on this special unpaid leave shall apply toward time in service for completion of probation and toward seniority for purposes of layoff.
6. Employees shall not be required to use accumulated vacation and compensatory time off prior to taking this special unpaid leave.
7. Such leave is available only to employees who are on paid status the entire day before as well as the entire day after the work furlough days.
8. Employees on other leave without pay shall not be eligible for work furlough.
9. Work furlough shall not be granted retroactively.

#### B. Long Term

Upon determination by the appointing authority that work force reductions may be necessary in the department, the appointing authority, with the approval of the Director, Department of Human Resources, may grant a corresponding number of permanent employees leave without pay with right of return to the same class in the same Service/division in the department in which the leave was granted for up to twenty-six (26) biweekly pay periods subject to the following conditions:

1. The employee shall not be required to use accumulated vacation and compensatory time off prior to taking this type of leave.
2. In the event that there is no vacancy upon expiration of the leave, the employee may displace an employee in the same class who has fewer layoff points. In the event that there is no vacancy, and no employee in the same class with fewer layoff rating points, an additional leave of up to twenty-six (26) biweekly pay periods shall be granted during which the employee, if still physically fit, may fill the first vacancy which occurs in the same class. The physical fitness standard applicable upon return shall not be greater than the standard applicable to the employee at the time of the furlough request.
3. Time on this type of leave shall apply toward time in service toward seniority for purposes of layoff.



## ARTICLE 7: UNPAID LEAVES (Cont'd)

4. It is understood that employees granted this type of leave will not be eligible for unemployment compensation benefits while on leave.
5. It is understood that employees granted this type of leave will not accrue sick leave or vacation credits while on leave.
6. It is understood that the County's share of health insurance premiums for the employee will not be paid during this type of leave, but that the employee may continue such coverage at his/her own expense.
7. Any denial of furloughed employees' request to return shall be subject to the negotiated grievance procedure.

### Section 3. Family Medical Leave

#### A. Definition

Family Medical Leave is unpaid time off which may be granted to an eligible employee. Family Medical Leave shall be in accordance with the federal Family and Medical Leave Act of 1993 ("FMLA"), Public Law 103-3, 107 Stat. 6 (29 USC 2601 et seq.) as well as California Family Rights Act of 1991 ("CFRA") pursuant to Govt. Code Section 12945.2, administrative regulations promulgated by the California Fair Employment and Housing Commission, subject to the conditions set forth below under this Article.

#### B. Eligibility

Family Medical Leave shall apply to all biweekly rate employees who have been employed by the County for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours of service during the twelve (12) month period immediately preceding the commencement of the leave are eligible for FML and who meet all the eligibility requirements of the FMLA or the CFRA.

#### C. Conditions

1. The employee shall give notice to the appointing authority of the need for FML by completing the required forms.
2. The requested leave will be counted against the employee's annual FMLA and California Family Rights Act ("CFRA") entitlement as well. This notice shall refer to the leave as "FML".
3. If an employee is requesting leave for more than three (3) days due to their own serious health condition or a serious health condition of a family member or registered domestic partner (a domestic partner listed on an

#### ARTICLE 7: UNPAID LEAVES (Cont'd)

"Affidavit for Enrollment of Domestic Partners" or a state "Certificate of Registered Domestic Partnership" submitted to employee benefits, they must provide medical certification on the form entitled "Certification of Health Care Provider" (Form DHR EB-20). If an employee does not submit a medical certification, FML may not be granted. Under certain circumstances, recertification of the serious health condition may be required.

4. The employee is required by the County of San Diego to substitute accrued vacation or other applicable paid leave in lieu of FML unpaid leave if the employee is eligible for the paid leave according to the County's paid leave provisions. Such paid leave usage will be counted against the employee's FML duration entitlement.
5. The County will continue to make its regular contributions towards insurance premiums for up to twelve (12) weeks of FML in order to maintain insurance benefits. The employee will be required to continue to pay their share of their regular insurance premium payments during FML. During FML unpaid leave, these payments must be made by check or money order to the County's Employee Benefits Division twice-monthly. Premium payments may be made in advance or the County will recover these payments from the employee upon their return to work.
6. The employee will be required to provide a fitness-for-duty certification before returning to work, unless the appointing authority determines that the certification is not necessary as more fully set forth in County Compensation Ordinance Section 4.3.12.
7. Following FML leave, the employee is entitled to return to the same or an equivalent job upon return from leave. However, should the employee exhaust their FML leave and continue on some other form of County unpaid leave, they may not be entitled to return to their previous position.
8. The employee may be liable for the payment of health insurance premiums paid by the County during their FML leave if the employee does not return to work for at least thirty (30) days after taking FML leave as more fully set forth in County Compensation Ordinance Section 4.3.12.

#### Section 4. Appeal of Disputes: Unpaid Leaves

Any disputes which arise concerning the application or interpretation of unpaid leave provisions of this Agreement shall have recourse to the Grievance Procedure herein and shall not be appealable to the Civil Service Commission.

## ARTICLE 8: ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

### ARTICLE 8. ALLOWANCES FOR WORK-RELATED EXPENDITURES

#### Section 1. License Reimbursement

The County shall reimburse any permanent employee, who works at least eighty (80) hours per biweekly period, for the cost of renewing any license or certificate the employee is required to possess as a condition of employment by the County, which the employee is required to renew during the term of this Agreement.

This reimbursement shall not cover any costs to the employee of becoming eligible for, or initially obtaining, such license. Reimbursement shall also not apply to any license necessary for the legal operation of vehicles or mechanical equipment.

#### Section 2. Uniforms, Work Clothes, Work Equipment and Articles

The County agrees to supply all protective clothing, protective equipment and protective supplies determined by management to be necessary for the employee to perform his/her job including, but not limited to, flashlight, handcuffs, rain gear, fire extinguisher, first aid kit, leather gear, protective vests, raid jackets and equipment bags.

This Section is not designed to reduce or increase any current benefits as to issuance of uniforms and work clothes or other work equipment now supplied by the County.

Upon request, management agrees to discuss with the Association, specific clothing needs where such tasks may result in unforeseen damage to clothing which is normal business attire for the classification. Unresolved issues may be submitted by the Association to the Joint Employee Safety Committee and, if still unresolved, submitted to the grievance procedure.

#### Section 3. Private Mileage and Use of County Cars

##### A. Private Mileage

1. Certification: Certification determines whether an employee is eligible to drive on County business or not. The Department Head may authorize an eligible employee either to receive reimbursement at the rate in (4) below for miles driven on County business in the employee's private vehicle; to drive a County car on County business; or to use a County pool car on County business. Recertification confirms whether an employee is eligible to drive on County business or not.
2. No employee covered by this Agreement shall be required to provide his or her personal vehicle on County business. Should the County desire to

## ARTICLE 8: ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

change this provision during the term of this Agreement, the County will meet and confer prior to making such change. The County will not discipline an employee who is unwilling or unable to use his/her vehicle on County business.

3. Rationing: In the event a gasoline rationing/allotment program is mandated, the County will not require an employee to use his or her personal allocation for County business.
4. Rate of Reimbursement: Employees who use their personal vehicles for County business shall be reimbursed on a monthly basis at the Internal Revenue Service (IRS) reimbursement rate for mileage. In the event the IRS increases the reimbursement rate for mileage, the County will adjust the mileage reimbursement rate to equal the new IRS rate as soon as practical, not to exceed sixty (60) days from the effective date of the IRS increase.

### B. Use of County Cars

1. Certification: See Section 3, subsection A (1).
2. The County may require an employee to use a County vehicle when the employee drives on County business.
3. County vehicles may be equipped with Global Positioning Satellite (GPS) equipment or other equipment which tracks the location, speed, and direction of the vehicle for County documentation, analysis, and use. Information gained from this equipment that supports a County employee has violated State law or County policy, may be used to support a corrective or disciplinary action against the employee.

Should the County determine corrective action is warranted, the County shall apply the principles of progressive discipline.

### C. Changes

In reassigning an employee from a private vehicle to a County vehicle or vice versa, the County will consider the needs of the employee as well as the efficiency and economy of County operations, including consideration of those positions with high mileage.

### D. Reimbursement Schedule for Travel Outside San Diego County

Employees shall be paid in accordance with the rates set forth on the schedule adopted by resolution of the Board of Supervisors in September of each year, for

## ARTICLE 8: ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

trips on County business outside the County of San Diego, but within the State of California.

### Section 4. Parking and Transportation

It is the policy of the Board of Supervisors that the assignment and use of County-owned vehicles shall be under the direction of the Chief Administrative Officer. (Board of Supervisors Policy H-10). The use of County-owned vehicles and vehicle equipment for other than official County business is prohibited. (County Administrative Code - Section 398.10).

Because the County must ensure that the usage of all County vehicles is cost-effective and in the best interests of the County; and because the issue of the Commuting Benefit of Home-Garaged Cars and Parking/Transportation are interrelated, the County and the Association agree to re-open the meet and confer process only on the issues of the Commuting Benefit of Home-Garaged Cars and Parking and Transportation.

#### A. Parking

This Section does not guarantee the provision of free parking spaces for employees. County parking lots, where available, will have the spaces contained therein designated in the following priority:

1. Disabled
2. Public
3. Carpools
4. County-owned vehicles
5. Official County business - transient
6. County employees

Employees who participate in carpools (2 or more persons per vehicle, 4 days per week minimum) shall be entitled to preferential parking spaces, when available.

#### B. Transportation Reimbursement for Certain Downtown Locations and Discounted Bus Pass Benefit

The County shall reimburse or provide a discount for all employees paid on a biweekly basis except those on an "hourly" or "special rate" pay basis for costs incurred in traveling to and from work, as follows:

1. Up to thirty dollars (\$30) reimbursement per month for each eligible employee who purchases a San Diego Metropolitan Transit Development Board "Ready Pass" (which includes trolley usage), or County Transit System bus pass, or North County Transit District "Coaster Plus Pass", or

## ARTICLE 8: ALLOWANCES FOR WORK-RELATED EXPENDITURES (Cont'd)

"Coaster 10-Trip Ticket", or similar monthly pass. Employees are eligible to participate in the Transit Pass Program after the first day of the month following their date of hire. An employee will not be reimbursed for any amount in excess of the actual cost of the pass; or

2. Ten dollars (\$10) reimbursement per month for each eligible employee who incurs parking expenses (excludes on-street, metered parking) at the below locations; or
3. Ten dollars (\$10) reimbursement per month for each eligible employee who incurs expense as a participant in the County Ride-Sharing Program at the below locations.

Applicable locations for 2 and 3 above: San Diego Courthouse, Hall of Justice, and Jail. Eligibility for 2 and 3 above is to be determined through certification by the appointing authority that the employee has incurred either, (a) parking expense of at least ten dollars (\$10); or (b) expense as a participant in the County Ride-Sharing Program of at least ten dollars (\$10) per month, subject to the rules and regulations of the Auditor and Controller. The administration of the sale to employees of discounted transit passes shall be subject to the rules and regulations of the Auditor and Controller.

## ARTICLE 9. EMPLOYEE BENEFITS

### Section 1. Retirement

- A. Retirement benefits for employees hired on or prior to September 30, 1978, shall be those established for Tier I of the General Retirement Program or Tier I of the Safety Retirement Program for eligible employees.

Retirement benefits for employees hired on or after October 1, 1978, shall be those established for Tier II of the General Retirement Program or Tier II of the Safety Retirement Program for eligible employees.

The Board of Supervisors shall adopt the employee retirement contribution rates recommended by the Retirement Board within ninety (90) days after the beginning of the immediately succeeding fiscal year from the date the recommendation is made.

- B. Retirement benefits for employees hired on or after August 28, 2009 but before December 1, 2012, and those employee otherwise allowed for by State law, shall be those established for a "3% @ 55 Safety Retirement Tier" program for eligible employees.

## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

"3% at 55 Safety Retirement Tier" shall consist of the following benefits:

Formula	3% @55 (Gov. Code § 31664.2)
Final Average Compensation	Highest 3 year Average
COLA	Maximum 2%

C. Except as allowed for by State law, retirement benefits for employees hired on or after December 1, 2012, shall be "Tier C" for eligible employees.

Formula	2.7% @57 (Gov. Code § 7522.25(f))
Final Average Compensation	Highest 3 year Average
Minimum Retirement Age	50
COLA	Maximum 2%

### D. Elimination of Tier II

Effective March 8, 2002, based upon their Tier II general and/or Tier II safety statuses, retirement benefits for employees hired on or after October 1, 1978, shall be respectively converted prospectively to those established for Tier I of the General Retirement Program and/or Tier I of the Safety Retirement Program for eligible employees. Upon the March 8, 2002 effective date, such employees shall pay, via payroll deduction, the amount prescribed by the rate established for each employee's contribution for their respective General and/or Safety benefit Tier I into the appropriate fund in accordance with the law and rules and regulations governing such employee contributions.

The County shall pay the accrued liability for previous service before March 8, 2002 for the elimination of Tier II general and/or Tier II safety conversion to Tier I general and/or Tier I safety status and pay the rate prescribed for employer contributions into the General and/or Safety Retirement Fund for the Tier I program in accordance with the law and rules and regulations governing such employer contributions.

### E. Formula Enhancement – 3% @ 50

Effective March 8, 2002, the Safety Retirement Program for Tier I eligible employees, shall be enhanced to a three percent (3%) at age fifty (50) formula consistent with law and subject to the rules and regulations of the San Diego County Employees Retirement Association.

The County shall pay the accrued liability for previous service before March 8, 2002 for the three percent (3%) @ fifty (50) formula enhancement only and pay the normal cost increase for prospective service for the three percent (3%) @ fifty (50) rates only prescribed for contributions into the General and/or Safety Retirement Fund for the Tier I program in accordance with the law and rules and

## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

regulations governing such contributions. Notwithstanding the provisions of "A" above and "B", the employer and employee contribution rates are subject to annual San Diego County Employees Retirement Association actuarial reviews and establishment of rates.

### Section 2. Retirement Offset

**Tier A:** Effective December 27, 2013: Reduce offset to 0.00%

**Tier B:** Effective December 27, 2013: Reduce offset to 0.00%

**Tier C:** No offset

Effective the payday of December 27, 2013, in exchange for the offset reduction specified above, employees shall receive a salary increase of 5.96%. The purpose of this salary increase is to mitigate the impact of the offset reduction by bargaining unit.

### Section 3. Insurance

Employees employed on a full-time (80-hour biweekly) basis shall be eligible for insurance benefits. Employees employed on a part-time basis and who are regularly scheduled to work one-half time or more (40 hours or more in an 80-hour biweekly pay period) and paid on a biweekly basis shall be eligible for insurance benefits plans.

#### A. Flexible Benefits Plan

A flexible benefits plan, which shall be in accordance with Section 125 of the Internal Revenue Code, was implemented for eligible employees covered by this Agreement on October 1, 1990.

1. Plan Design. The flexible benefits plan will be a cafeteria-style benefits program wherein the County will make a contribution towards the Flexible Benefits Plan for each eligible employee to be allocated during the employee's active employment. The County contribution is to be distributed by the employee among the menu of benefit options listed below, the specific details and administration of which are set forth in the plan brochures:

- a. "Core" Benefits:
  - Health insurance
  - County basic life and AD&D insurance
- b. Optional Benefits:
  - Dental insurance



## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

- Vision insurance
- Supplemental life insurance
- Supplemental accidental death and dismemberment insurance (AD&D)
- Flexible spending accounts for pre-tax reimbursement of qualified medical and/or dependent day care expenses. Account credits must be used during the plan year in which they are earned for expenses incurred during the same plan year.
- The plan may be modified upon written notice by the County.

This plan includes for eligible employees pre-tax contributions for all monies paid towards health, dental, vision and/or voluntary AD&D plans.

### 2. Coverage.

- a. All eligible employees will be required to have the following minimum "core" benefits for the employee only:
  - County health insurance unless properly waived
  - County basic life and AD&D insurance.
- b. Coverage by County Spouse: An eligible County employee married to another County employee and who submits satisfactory "proof of health insurance" coverage may elect health insurance coverage as a dependent under the spouse's primary plan. In such a case, the employee covered as a dependent will have the "employee only" County contribution amount available to apply towards the employee's Flexible Benefits Plan during the employee's active employment.
- c. Proof of Coverage: Employees who submit satisfactory "Proof of Health Insurance Coverage" may elect not to be covered by the County's health insurance plans. This election may only be made during the County's open enrollment period or during the year as the result of a qualifying "change in status" as defined by Section 125 of the Internal Revenue Code. For employees waiving participation in a County-sponsored health plan, the County's contribution will be deposited into the employee's Flexible Benefits Plan.
- d. Domestic Partner. An employee may elect to cover a domestic partner under the County's health, dental or vision plans. To cover a domestic partner, the employee must meet and agree to the specifications set forth on an "Affidavit of Domestic Partnership." Any premium paid by the County on behalf of the domestic partner or the domestic partner's dependent(s) shall be considered taxable

## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

income to the employee with domestic partner coverage pursuant to the provisions of the Internal Revenue Code.

3. County Contribution Toward Flexible Benefits Plan. Insurance premium costs shall be borne by the employee excepting that the County shall make the following contribution per month toward the Flexible Benefits Plan (which includes health insurance). The employee's insurance premium costs will be reduced by the amount the employee elects to distribute to his or her insurance premium costs from the County's contribution towards the Flexible Benefits Plan. The County's contribution towards the Flexible Benefits Plan shall be:

Effective January 1, 2014: 5% increase

	Per Month	Approximate Annual
Employee Only	\$502.00	\$6,023.00
Employee + 1	\$721.00	\$8,652.00
Employee + 2 or more	\$1,010.00	\$12,120.00

Effective January 1, 2015: 5% increase Employee only, 7% increase for Employee + 1, 9% increase for Employee + 2 or more

	Per Month	Approximate Annual
Employee Only	\$527.00	\$6,324.00
Employee + 1	\$771.00	\$9,252.00
Employee + 2 or more	\$1101.00	\$13,212.00

4. Effective Date of Eligibility Under The Flexible Benefits Plan. The effective date of eligibility under the Flexible Benefits Plan for new employees shall be the first day of the month following the month of hire provided that the employee has completed and returned all enrollment forms within the month of hire. If completed forms are not received by the end of the month of hire, benefits will be effective the first day of the month following receipt of completed forms. All forms must be received in the Employee Benefits Division within thirty (30) days of hire in order for benefits to commence. Eligibility shall terminate on the last day of the month in which an employee last had paid service, provided that the employee's portion of the health insurance premium is paid for such period.

Notwithstanding the above, eligibility for all Flexible Benefits Plan features which are in addition to health insurance shall be thirty (30) days after the effective date on which health insurance coverage begins.

5. Employee Insurance Coverage During Leaves of Absence

## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

- a. Life Insurance. Employees on leave without pay for any reason, including suspension, may continue their life insurance coverage for up to six (6) full months.

Employees choosing to continue their life insurance shall pay all premiums in advance for the first three months of continuance and shall pay further premiums in quarterly payments thereafter no later than the 21st of the last month of each quarter. Employees may pay all premiums required for the entire six (6) month leave period in advance. In the event an employee who is on leave without pay does not pay premiums in advance, the coverage shall be discontinued. Such employees shall be entitled to re-apply upon return to work subject to medical insurability acceptable to the insurance provider.

- b. Medical Insurance (Includes Health Insurance) During Leaves of Absence. In accordance with the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 (Pub. L. 99-272), employees may continue their health insurance coverage for up to eighteen (18) full months following the month in which the leave commenced.

In the event an employee who is on leave without pay does not pay medical insurance premiums in advance, the coverage shall be discontinued. Such employees shall be automatically re-enrolled in the same health plan enjoyed previous to leave without pay, within 30 days from the date they return to work. Effective date of coverage will be the first day of the month following receipt of enrollment forms in the Employee Benefits Office. With certain health plans, re-enrollment is contingent upon medical insurability.

The commencement of leave without pay shall be considered a "qualifying event" as defined under COBRA by virtue of the employee's reduction in working hours. Employees who elect coverage under COBRA by choosing to continue their medical insurance shall pay one hundred two percent (102%) of the applicable premium and shall be subject to the same administrative requirements as all other COBRA group plan members. Premiums will be calculated and paid by the employee at least one (1) month in advance.

- c. The administration of these benefits is subject to the rules and requirements of the Department of Human Resources.

## ARTICLE 9: EMPLOYEE BENEFITS (Cont'd)

6. Flex credits not designated for eligible services are placed in the employee's health FSA. IRS regulations establish annual maximum limits for flexible credits which may be rolled over to an FSA. An employee is not entitled to flexible credits that, when rolled over to an FSA, exceed the maximum limits allowed by law. Any employee who is expected to have flexible credits rolled over to an FSA that will exceed the maximum limits shall have their bi-weekly flex credit contributions adjusted to an amount, that when calculated on an annual basis, that will be equal to the maximum allowed by law.

Notwithstanding the above paragraph, if an employee experiences a "qualifying event" as defined by IRS and HIPAA Regulation, or has a triggering event that impacts flex credits, that employee will be allowed to change their status and have their flex benefits recalculated so as to maximize or recoup any retroactive flex benefits previously adjusted, in order to realize the maximum value of the flex benefit contribution, subject to IRS limitations.

### B. Life Insurance

The County's Flexible Benefits Plan shall include, as a "Core" Benefit, Life Insurance for each eligible employee in the amount of ten thousand dollars (\$10,000) for the employee and two thousand dollars (\$2,000) for each dependent.

### C. Optional Insurance Plans

1. Employee Pre-Paid Optical/Dental Insurance. An employee may elect to enroll in one or both optional insurance plans to be made available by the County:
  - a. Dental Care Plan (Pre-paid Dental Insurance)
  - b. Eye Care Plan (Pre-paid Optical Insurance)

Insurance premium cost shall be borne by the employee.

## ARTICLE 10. PERSONNEL PRACTICES

### Section 1. Personnel Files

An employee, or an Association representative with the written consent of the employee, may inspect that employee's personnel file with the exception of all material

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

obtained from other employers and agencies at the time that employee was hired. Employees shall normally request such files forty-eight (48) hours in advance of such inspection.

An employee shall be entitled to read any statement, written by the employee's supervisor or departmental management, on his/her work performance or conduct if such statement is to be filed. No such statement shall be filed before all County appeal rights are exhausted. If such a statement is inadvertently filed before all County appeal rights are exhausted, the employee may request sealing of the applicable portions of his/her file by the Civil Service Commission. The request for sealing may be made after a decision on the appeal has been rendered. All such statements on which filing is delayed pending completion of the County appeal process, shall be filed upon the rendering of a decision, if such decision upholds the statement or charges against the employee in whole or, if upheld in part, it shall be filed as amended.

The employee shall acknowledge reading such material by affixing his/her signature on the actual copy to be filed, with the understanding that such signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to initial, the supervisor will sign, noting the refusal of the employee to initial.

Disciplinary action includes a letter of warning, written reprimand, suspension, demotion, or discharge. If the department takes disciplinary action against an employee, the department, upon request of the employee, will furnish the employee a copy of all documents or written statements used by the department as a basis for its action.

All correspondence of commendation shall be entered as a permanent part of an employee's personnel file, except where they are shown to be frivolous. In that case, they shall be returned to the employee.

### Section 2. Dismissal During Probation

Probationary employees will be given as much notice as is possible of their dismissal during probation either through the performance report or other written notification. In the event that emergency circumstances exist in which the immediate removal of an employee is essential to avert harm to the County or to the public, or in which the employee has threatened harm to the County or public, the appointing authority may remove the employee immediately.

### Section 3. Legal Representation

Upon request of an employee and subject to any limitations provided by law, the County will provide for the defense of any civil action or proceeding initiated against the employee by a person or entity other than the County in a court of competent

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

jurisdiction on account of any act or omission occurring within the course and scope of his/her employment as an employee of the County.

Nothing herein shall be deemed to require the provision of such defense where the discretion to provide or not provide such defense is vested in the County pursuant to the provisions of the California Government Code, now and as amended or where the act or omission was not within the scope of the employee's employment, or the employee acted or failed to act because of actual fraud, corruption or actual malice, or where the provision of such defense would create a conflict of interest between the County and the employee.

Nothing herein shall be construed to grant to any employee any rights or privileges in addition to those provided in the said Government Code.

### Section 4. Retiree Medical Trust

- A. Creation – A Retiree Medical Trust Fund (RMT) will be established by the Association/Union for eligible employees in the Bargaining Unit. The Trust will comply with all of the provisions of Section 501(c) (9) of the Internal Revenue Code (IRC). The Trust shall be administered by a Board of Trustees who manages resources of the Trust and determines applicable administrative fees for managing the Trust Fund. The Trustees ensure that payments of qualified medical expenses incurred by participants (eligible employees who have separated from County service for reasons other than disability or death) or their eligible dependents – as defined by IRC Section 152, are properly reimbursed. The County shall withhold a mandatory contribution of \$25.00 per pay period on a pre-tax basis from the pay of every employee who is a member of the Bargaining Unit. These contributions shall be included as salary for the purpose of calculating pension benefits, to the extent this does not jeopardize the pre-tax treatment of the contributions, and remitted according to Article 10, Section 4.E below. All of the distributions from the Trust Fund made to participants or their eligible dependents for the reimbursement of qualified medical expenses as defined by the Internal Revenue Codes (including qualified medical insurance payments) will also be non-taxable to the participants or the eligible dependents.
- B. Vacation Leave Transfer – The County and the Association/Union agree that the County will make the following mandatory transfer, on a pre-tax basis, to the Trust on behalf of every employee who is a member of the bargaining unit represented by the Association.
  - a. Except upon separation due to death, a mandatory transfer in the amount of 0% of the balance of the employee's unpaid vacation balance as of the date of his/her separation from County service.
  - b. This amount will remain fixed for the first year of the MOA. After the first year, the Association has the right, subject to approval of its members and

#### ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

according to the Association's internal rules, to prospectively modify the amount of the mandatory transfer amount, and the County agrees to transfer the changed amount subject to the requirements set forth in Section E below.

- c. The County agrees to make applicable amendments to the Terminal Pay Plans: Defined Benefit Pension Plan, Defined Contribution Savings Plan and Excess Benefit Savings Plan.
- C. Contributions – The County shall remit the above contributions to the Trust for the duration of the Memorandum of Understanding. Employee contributions shall be remitted bi-weekly, in one aggregate ACH transfer to the custodian of the Retiree Medical Trust, accompanied by a list of the employees for whom the contributions are made. Vacation leave transfers shall be remitted in accordance with Section B above.
- D. Modification of Employee Contribution Amounts – The County and the Association/Union agree that the Association/Union has the right, subject to approval of its members and according to the Association's internal rules, to prospectively modify the amount of the mandatory employee monthly contribution, or the percentage of the vacation transfer, so long as the modification is made for all employees covered by this Agreement and the total amount of Employee Contributions (not including the vacation transfer) is equal to a minimum of \$25 up to a maximum of \$100, in any increment of \$25. Any such changes will be provided to the County, in writing, with at least a two (2) pay period advance notice and can only be done, without incurring charges, one time per fiscal year.

The County hereby acknowledges receipt of the Trust Agreement governing the Trust and will comply with rules by the Trust Office in regard to reporting and depositing the required contributions set forth above.
- E. Indemnification – The Association/Union shall indemnify and hold the County of San Diego harmless from any claims or legal actions which arise under this provision of the Memorandum of Agreement.
- F. Termination of Payments - In the event the RMT created to provide benefits terminates, or otherwise fails to provide the benefits as set forth in the Trust Agreement, the County's obligation to make funding contributions to the Trust shall cease. The Association/Union shall notify the County in writing within three (3) calendar days of any action or proposed action to terminate the Trust or to eliminate benefits provided by the trust.
- G. Waiver of Right to Negotiate Employer Contribution – The intent of the parties in this section is to create an RMT into which eligible employees may make contributions. The RMT, as created, is intended by both parties to be funded

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

solely by contributions made by eligible employees pursuant to the terms of this Agreement. The Association is not now asking the County to make any contribution or to provide any funding for the RMT, nor does it expect the County to do so in the future. With this Agreement in mind, the Association expressly waives any right to reopen the question of County contributions to the RMT during the life of this Agreement and further waives the right to seek to negotiate any form of County contribution to or funding of the RMT for a period of ten (10) years from the effective date of this Agreement. It is the intent of the Association that this waiver will survive the expiration of this Agreement.

### Section 5. Layoff Procedure

#### A. General

When the Board of Supervisors determines it is necessary through lack of work or funds, to reduce the number of employees in any class covered by this Agreement, the appointing authority of the department concerned shall notify the Director in writing of the number of employees to be laid off, the class title, and the date the employees are to be laid off. Upon receipt of such notice, the Director shall give to the appointing authority, the names of the employees who should be first laid off in accordance with this procedure.

#### B. Exceptions

1. Suborganizational Layoff. When the appointing authority so requests, the Civil Service Commission, upon finding that it is in the public interest, may authorize an appointing authority to lay off employees within a division, office, section, institution or other subdivision of an office, department or institution instead of laying off employees from the office, department or institution as a whole. In such case, the foregoing provisions shall be applied to the division, office, section, institution or other subdivisions within which the Civil Service Commission has authorized the layoff.
2. Required Specialized Skills. When the appointing authority so requests, employees who perform required services and possess specialized knowledge, and/or skill not possessed by other employees in the Department and which are necessary to the operation of the Department, may be excepted from layoff, as authorized by the Civil Service Commission pursuant to a finding that such exception from layoff is in the public interest.



## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

### C. Notice of Layoff

1. DHR Notice to Department and to Association. Prior to the occurrence of a layoff, the Director, shall provide written notice to the Association when the Department is notified of any employees covered by this Agreement, who are identified for layoff. This notice shall list all persons in the affected class including the number, class title, seniority rating, and date on which affected employees are to be laid off.
2. Appointing Authority Notice to Employees. Upon receipt of the layoff list, the appointing authority shall prepare and serve a Notice of Layoff. The notice shall contain the following information:
  - a. The effective date of layoff;
  - b. The seniority rating of the employee computed by the Director;
  - c. The seniority ranking of the employee on the layoff list for the particular class involved in the layoff;
  - d. The total number of layoffs for the particular class;
  - e. A statement of the computation of seniority ratings and rankings;
  - f. A copy of the complete layoff list compiled by the Director showing the seniority rating for each employee on the layoff list;
  - g. A statement that the employee has the opportunity to contact the Director or designated representative no later than five (5) business days after receipt of the Notice of Layoff to inspect the records relating to the computation of the layoff list including the employee's seniority rating and ranking, and to meet with the Director or designated representative regarding any corrections related to such list, rating, or ranking. The employee shall be informed that failure to contact or meet with the Director or designated representative within the prescribed period will be deemed a waiver of any objections that might have been raised regarding the list, rating, or ranking;
  - h. A statement that the layoff will be effective on the date indicated unless the appointing authority advises the employee in writing otherwise prior to the effective date and time set forth on the notice;
  - i. A copy of provisions of Rule XIV of the Rules pertaining to layoff.

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

### D. Approval and Service of Notice

The Notice of Layoff shall be approved by County Counsel prior to its distribution to any employee. The Notice of Layoff shall be served, either personally or by mail, on an employee at least fifteen (15) calendar days prior to the effective date of the layoff.

### E. Order of Layoff

Except for permanent employees who volunteer to be laid off, the order of layoff within the class and in the Department, shall be in the following order (the appointing authority may lay off a volunteer for layoff at any point in this order):

1. Provisional Employee. Definition: An employee who has not completed a probationary period and who has not been appointed to his/her present class from an eligible list.
2. Certified Temporary Employee. Definition: An employee who has not completed a probationary period and has been temporarily appointed from an eligible list for a specified period.
3. Probationary Employee. Definition: An employee who has been appointed to a permanent position from an eligible list and is currently serving, but who has never completed, a probationary period.
4. Permanent Employee. Definition: An employee who has completed a probationary period or a permanent employee who is serving a probationary period in the same or a different class.

Permanent employees shall be laid off according to the layoff ratings, lowest ratings first. The order of layoff within categories 1, 2, and 3, and for permanent employees with equal layoff ratings, shall be at the appointing authority's discretion. Employees on leave shall be laid off or demoted in lieu of layoff as if they were active employees.

### F. Seniority

Seniority is the employee's total hours of continuous County service. All service of a blanketed-in employee shall, for the period prior to classification to the position, be credited for seniority purposes whether or not it was continuous. All seniority is lost upon resignation or dismissal. Any employee who has gained permanent status and is laid off, shall, if reinstated, regain his/her seniority credit possessed at the time he/she was laid off.

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

### G. Calculation of Layoff Rating

1. Continuous-service-date to May 23, 1986 ("historical" layoff rating). The purpose of this "historical" layoff rating is to calculate employees' service credit for purposes of the past to the date of the last full pay period May 9, 1986. These points will constitute employee's layoff rating for the past, to which the points calculated for prospective implementation (standard layoff rating) will be added as provided below:

Historical layoff rating: One (1) point for each hour of continuous (unbroken) service from last date employee was hired into the classified service (80 points for each full biweekly pay period).

2. Standard layoff rating. One (1) point for each hour of paid service (excludes all unpaid leaves or periods of suspension but includes short-term voluntary work furlough), after the day specified in (1) above.
3. Formula for combining historical and standard layoff ratings. Employees in classes identified for layoff shall have their seniority calculated as follows to combine historical and standards ratings:

Total historical ratings: \_\_\_\_\_ Hrs.  
Plus: standard rating: \_\_\_\_\_ Hrs.  
Total: \_\_\_\_\_ Hrs./Points

The total of these two (2) ratings shall constitute the employee's official layoff rating.

### H. Demotion in Lieu of Layoff

The appointing authority shall determine by class, subject to review by the Director, whether demotion shall be afforded employees as an option in lieu of layoff.

At the request of the appointing authority, a permanent employee shall, in lieu of layoff, be afforded the option of demotion within the same department to a position in a lower class, provided that no such demotion shall in turn require the layoff or demotion from such lower class of any employee whose layoff rating is at least as high as that of the demoting employee. A probationary employee may be afforded the opportunity to accept a demotion within the same department to a position in a lower class provided no such demotion shall in turn require the layoff of any employee in the lower class. Such probationer shall not become permanent in the lower class by this action except by completing a new full probation period in such lower class.

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

### I. Cash in Lieu of Compensatory Time Off

The Board of Supervisors may approve the payment of cash in lieu of compensatory time off for any employee who is laid off when such payment is in the best interests of the public service.

### J. Eligibility to be Placed on Reinstatement List

A permanent employee who is laid off, demoted in lieu of layoff, or whose Compensation Ordinance position is to be deleted as a result of the Board of Supervisors having had a second reading of an Ordinance amendment to delete the position, shall have his/her name placed on the reinstatement list for the class from which the employee is, or is to be, laid off or demoted in lieu of layoff. Employees shall be on the reinstatement list for two (2) years except that an employee who three (3) times refuses an offer of reinstatement to the class from which he/she was laid off, or to a class of equal status, or fails to respond to an offer of reinstatement, shall have his/her name removed from the reinstatement list following said refusal. In addition, if the employee on the reinstatement list is appointed to a class from which he/she was laid off, or to a different class of equal or greater status than the reinstatement list class, then his/her name shall be removed from the reinstatement list. An employee who accepts an offer of reinstatement to the class from which he/she was laid off shall also be removed from the reinstatement list upon the date of reinstatement. The placement on the reinstatement list shall be determined in the same manner as for the order of layoff except in the inverse order thereof.

Employees on the reinstatement list shall have the first right of reinstatement to any vacancies in any department for the class for which he/she is eligible for such reinstatement, subject to the following:

1. A new probationary period shall not be required of an employee reinstated to a department from which he/she was laid off.
2. A new probationary period shall be required of an employee reinstated to a different department than that from which he/she was laid off, except that failure of probation shall return the employee to the reinstatement list. In no event shall such failure of probation extend the employee's placement on the reinstatement list beyond two (2) years from the date of placement on it.
3. A reinstated employee will regain his/her seniority credit possessed at the time he/she was laid off, which shall count for purposes of vacation accrual rate and step increase. In addition, the employee's sick leave balance (except for that portion for which the employee paid cash at the time of layoff), and compensatory time off balance accrued as of layoff, shall be reinstated.

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

### Section 6. Safety Committee

The County and the Association agree that the issue of safety and hazardous conditions shall be reported to an employee's supervisor immediately upon their discovery. The supervisor has the responsibility to either determine whether a hazard exists or seek an opinion from qualified personnel in the County whether a hazard exists. If a hazard does exist, the supervisor shall attempt to correct the conditions as soon as possible.

If the supervisor fails to respond, the employee may notify his/her employee representative. The employee representative may report all safety hazards in writing to the County Safety Officer. The Safety Office shall promptly investigate all such reports and recommend corrective measures where appropriate to the Department Head.

Upon request, the County and the Association agree to form a joint committee of not more than three (3) members of the Association and not more than three (3) members of County management. The committee shall meet upon the request and submission of an agenda by the Association. The committee shall provide input to the Safety Officer in the development of overall accident prevention programs and elements.

### Section 7. Smoking

The administration and regulation of smoking in County facilities shall be in accordance with the amended Ordinance (New Series) County of San Diego Administrative Manual/Board of Supervisors Policy as adopted by the Board of Supervisors and administered by the Chief Administrative Officer.

### Section 8. Drug and Alcohol Use Policy

#### Mandatory Random and Reasonable Suspicion Drug and Alcohol Testing

- A. The County and the Association agree to work together in promoting a safe and healthy work environment for the public, the clients of the Department and the employees of the District Attorney, by the agreed upon use of random and reasonable suspicion drug and alcohol screening pursuant to the testing procedures detailed in the Omnibus Transportation Employee Testing Act of 1991, for (a) all newly-hired employees, (b) in the District Attorney Investigator classifications I-V, (c) during their respective probationary periods, which shall also define the eligible pool.
- B. All newly-hired employees in the District Attorney Investigator classifications I-V during their respective probationary periods in the DI and DM units, shall be subject to the use of random and reasonable suspicion drug and alcohol screening pursuant to the testing procedures detailed in the Omnibus Transportation Employee Testing Act of 1991 except that:

## ARTICLE 10: PERSONNEL PRACTICES (Cont'd)

1. For purposes of random selection, sixty percent (60%) of the eligible pool as described in B. 1. (a-c) above, shall be subject to random drug screening, and twenty percent (20%) of the eligible pool, as described in B. 1. (a-c) above, shall be subject to random alcohol screening.
  2. Employees selected for random testing must report for testing within four (4) hours after notification.
- C. All drug and alcohol screening shall be subject to the procedures detailed in the Department of Human Resources Policy and Procedure Manual Policy No. 1106, entitled "Omnibus Transportation Employee Testing Act of 1991.
- D. Training and educational programs shall be provided to all subject employees and supervisors.

### Section 9. Employee Recognition Programs

Employee recognition programs may be instituted in County departments. The purpose of such programs will be to recognize exemplary employees and improve public service through enhanced motivation. The establishment, disestablishment, administration and regulation of all employee recognition programs shall be at the discretion of the Chief Administrative Officer. Such programs as are established shall not be subject to appeal under the Grievance Procedure of this Agreement.

### Section 10. Probationary Period

All classifications in the DI & DM Bargaining Unit shall have a probationary period of twelve (12) months. Any employee hired into a classification represented in these bargaining units on or after the date adopted by the Board of Supervisors, shall serve a 12-month probationary period.

## ARTICLE 11. GRIEVANCE PROCEDURE

This grievance procedure shall be applied in resolving grievances filed by employees covered by this Agreement.

## ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

### A. Definition

A grievance is defined as an allegation by an employee or a group of employees that the County has failed to provide a condition of employment which is established by this Agreement or by a departmental Policy or Procedure Manual, and shall include written reprimands. This grievance procedure shall not apply to matters:

1. Over which the Civil Service Commission has jurisdiction;
2. Covered by the Labor Relations Ordinance;
3. Concerning Performance Reports;
4. Concerning any other subjects, unless the subject is covered by the expressed terms of this Agreement or any portion of a departmental Policy or Procedures Manual that relates specifically to wages, hours, and other terms and conditions of employment.

### B. Stale Grievance

A grievance shall be void unless filed in writing within fifteen (15) calendar days from the date upon which the County is alleged to have failed to provide a condition of employment which has been established by this Agreement, or within fifteen (15) calendar days from the time an employee might reasonably have been expected to have learned of the alleged failure. In no event shall a grievance include a claim for money relief for more than the fifteen (15) day period plus such reasonable discovery period.

### C. Informal Discussion with Employee's Supervisor

Before proceeding to the formal grievance procedure, an employee shall discuss his/her grievance with his/her immediate supervisor in private and attempt to work out a satisfactory solution. If the employee and his/her immediate supervisor cannot work out a satisfactory solution, the employee may then choose to represent himself/herself individually, or he/she may request the assistance of an employee representative who has been designated pursuant to Article 2, Section 4, entitled "Employee Representative" in reducing to writing and formally presenting the grievance.

### D. Formal Written Grievance to Employee's Supervisor

If the employee chooses to formally pursue his/her grievance, he/she or his/her representative shall present the written grievance to his/her immediate supervisor

## ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

within seven (7) working days after the date upon which the grieving employee informally discussed the grievance with the supervisor. The written grievance shall specify the Article, Section, and/or Subsection of this Agreement which is alleged to have been violated by the County, and shall specify dates, times, places and persons, and other facts necessary to a clear understanding of the matter being grieved. The immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing within seven (7) working days after receipt of the written grievance. If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the supervisor's answer within which to file an appeal to the next level.

### E. Grievance to Middle Management

The Middle Manager shall have seven (7) working days in which to review and answer the grievance in writing after receipt. Although no meeting is required at this level, the employee and his/her representative may be present at and participate in any such meeting as the Middle Manager may choose to conduct. If the grievance is not resolved at this level, the employee shall have seven (7) working days from receipt of the written answer within which to file an appeal to the Department Head.

### F. Grievance to Department Head

The Department Head, or the Department Head's designee, shall have seven (7) working days in which to review, and answer the grievance in writing. Unless waived by mutual agreement of the employee or his/her representative and the Department Head or the Department Head's designee, a meeting is required at this level and the employee and his/her representative shall have the right to be present and participate in such a meeting. The time limit at this level may be extended by mutual agreement between the Department Head, or the Department Head's designee, and the employee or his/her representative.

### G. Waiver of Appeal Steps

If the grievance is not resolved after the immediate supervisor has answered it in writing, the grievant and the Department Head, or the Department Head's designee, may by mutual agreement waive review of the grievance at the Middle Management level and proceed to present the grievance to the Department Head.

### H. Advisory Arbitration of Grievances

In the event that the grievance is not resolved by the Department Head, the Association may, within thirty (30) calendar days after receipt of the decision of



## ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

the Department Head or the Department Head's designee, made pursuant to paragraph F, request that the grievance be heard by an arbitrator.

### I. Informal Review by Labor Relations Office

Prior to the selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Labor Relations Office shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Labor Relations Office shall have ten (10) work days in which to review and seek adjustment of the grievance.

### J. Selection of Arbitrator

The arbitrator shall be selected by mutual agreement between the Labor Relations Office and the grievant or his/her representative. If the Labor Relations Office and the grievant or his/her representative are unable to agree on the selection of an arbitrator, they shall jointly request the State Mediation and Conciliation Service to submit a list of five qualified arbitrators. The Labor Relations Office and the grievant or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.

### K. Duty of Arbitrator

Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be advisory in nature. The decision of the arbitrator shall be based solely on the interpretation of the appropriate provisions of the Memorandum of Agreement applicable to the grievance, and he/she shall not add to, subtract from, modify or disregard any of the terms or provisions of the Agreement.

The provisions for arbitration are not intended and shall not be construed to empower an arbitrator to change any condition of employment, specifically covered by the Memorandum of Agreement, or to revise, modify or alter, in any respect, any provision contained in the Agreement.

### L. Payment of Costs

Each party to a hearing before an arbitrator shall bear his own expenses in connection therewith. All fees and expenses of the arbitrator shall be borne one-half by the County and one-half by the grievant.

## ARTICLE 11: GRIEVANCE PROCEDURE (Cont'd)

If the County does not abide by the decision of the arbitrator, the County shall pay all fees and expenses of the arbitrator.

### M. Effect of Failure of Timely Action

Failure of the employee to file an appeal within the required time period at any level shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.

## ARTICLE 12. EMERGENCY

Nothing herein shall limit the authority of management to make necessary changes during emergencies. However, management shall notify the Association of any such changes as soon as possible. Such emergency assignments shall not extend beyond the period of the emergency. Emergency is defined as an unforeseen circumstance requiring immediate implementation of the change.

## ARTICLE 13. CONTINUATION OF WAGES, HOURS AND WORKING CONDITIONS

The provisions of this Agreement, together with those departmental directives regarding wages, hours and working conditions subject to meet and confer that are currently in existence in writing and which are not changed by this Agreement, shall not be revised to adversely affect the employees in this unit during the term of this Agreement unless by mutual agreement or exhaustion of the meet and confer process in accordance with Government Code Section 3500 et seq.

## ARTICLE 14. OBLIGATION TO SUPPORT

The parties agree that subsequent to the execution of this Memorandum and during the period of time said Memorandum is pending before the Board of Supervisors for action, neither the Association nor management, nor their authorized representative or any member of its Board of Directors will appear before the Board of Supervisors or meet with members of the Board of Supervisors individually to advocate any amendment, addition, or deletion to the terms and conditions of this Memorandum. It is further understood that this Article shall not preclude the parties from appearing before the Board of Supervisors nor meeting with individual members of the Board of Supervisors to advocate or urge the adoption and approval of this Memorandum in its entirety.

## ARTICLE 15. AGREEMENT, MODIFICATION, WAIVER

### ARTICLE 15. AGREEMENT, MODIFICATION, WAIVER

- A. This Memorandum sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.
- B. Except as specifically provided herein, it is agreed and understood that the parties hereto reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this Memorandum.
- C. No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto and, if required, approved and implemented by the County Board of Supervisors.
- D. The waiver of any breach, term or condition of this Memorandum by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

## ARTICLE 16. PROVISIONS OF LAW

This Memorandum is subject to all current and future applicable Federal, State, and local laws, regulations and the Charter of the County of San Diego. All ordinances, rules and regulations enacted by the Board of Supervisors, Civil Service Commission, Labor Relations Ordinance, or other County commission or board having independent rule-making authority shall be subject to the appropriate revisions, amendments and deletions necessary to conform with the purpose, intent and application of the provisions of the Memorandum.

If any part or provision of this Memorandum is in conflict or inconsistent with such applicable provisions of Federal, State or local laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of the Memorandum shall not be affected thereby.

If any Article, part or provision of this Agreement will operate to withhold or prohibit the receipt of any State or Federal funds, such Article, part, or provision shall be suspended to the extent that the Article, part or provision operates to withhold or prohibit the receipt of such funds. In such instance, the County and Association will immediately meet and confer to discuss alternative proposals submitted by either party.

## ARTICLE 16: PROVISIONS OF LAW (Cont'd)

### Wage Freeze

Should either the Federal or State government or both enact any mandatory wage and/or benefit freeze which would void, suspend or alter any provision or part hereof of this Memorandum, the County and the Association agree that at such time as the provisions of the wage and/or benefit freeze are lifted, the affected provisions of this Memorandum shall be restored as originally agreed upon retroactively to the date of avoidance, suspension or alteration insofar as allowable by law. Alternatively, should the parties mutually agree, they may jointly elect to renegotiate any provision voided, suspended or altered by such wage and/or benefit freeze.

## ARTICLE 17. PROHIBITION OF JOB ACTION

Notwithstanding any other provision of this Memorandum of Agreement to the contrary, both parties and each employee in a classification represented by the Association agree that:

- A. The unimpaired continuation of County services is of paramount importance to County residents. Therefore, during the term of this Memorandum of Agreement and for a one hundred and eighty (180) calendar day period following the expiration of the term of this Memorandum of Agreement or conclusion of the full impasse process (Article IV, Section 4, of the San Diego County Labor Relations Ordinance) whichever occurs later, neither the Association nor any employee represented by the Association shall cause, authorize, engage in, or sanction any type of job action which results in less than the full and faithful performance of the duties of employment.
- B. An employee who engages in any activity prohibited in subsection A herein above, shall not be entitled to any wages or County-paid benefits whatsoever for the period of the job action. To effectuate this provision, the County may, subject to reasonable notification and opportunity to state, in writing, the employee's position, make payroll adjustments in individual employee's warrants.
- C. In addition to the administrative adjustments authorized by subsection B hereinabove, the County reserves the right to take appropriate disciplinary action for such job action including, but not limited to, discharge.
- D. If the Board of Supervisors, by majority vote, determines to its satisfaction, that subsection A hereinabove has been violated by the Association, the County may take such action(s) as it deems appropriate.

## ARTICLE 17: PROHIBITION OF JOB ACTION (Cont'd)

- E. The Association, its representatives, and represented County employees shall comply with the provisions of this Memorandum of Agreement and shall make every effort toward inducing all employees in this unit to fully and faithfully perform their duties. In the event of any activity prohibited by subsection A hereinabove, the Association, its representatives, and represented County employees agree to take appropriate necessary steps to assure compliance with this Memorandum of Agreement.

## ARTICLE 18. MODIFICATION

This Agreement shall not be modified unless such modification is approved by the Board of Supervisors pursuant to the joint submission and recommendation of the Labor Relations Office and the Association.

## ARTICLE 19. RE-OPENER PROVISIONS

### A. Revisions to Civil Service Rules and Procedures

Notwithstanding any other provisions of this Agreement (with specific reference to Article 12 and Article 15), the Union agrees to meet and confer with the County upon request regarding revisions to Civil Service Rules and procedures and to re-open those provisions of this Agreement which may be affected.

### B. Reclassification Study

Notwithstanding any other provision of this Agreement (with specific reference to Article 12 and Article 15) the Association agrees to meet and confer with the County upon request regarding the results of the County-wide reclassification study and to re-open those provisions of this Agreement which may be affected.

### C. Enterprise Resource Project (ERP) – Modernization of Business Systems

Notwithstanding any other provisions of this Agreement (with specific reference to Article 12 and Article 15), the Association agrees to meet and confer with the County upon request from the County regarding matters within the scope of representation pertaining to implementation of ERP software applications and IT issues and to re-open those provisions of this Agreement which may be affected.

### D. Health Plan Task Force

The County will continue a Task Force of employee representatives and managers to discuss health care options.

Following consultations with the Health Plan Task Force, the County agrees to provide at least one alternative to Kaiser that may include options such as an

ARTICLE 19: RE-OPENER PROVISIONS (Cont'd)

HMO, PPO, and/or High Deductible Health Plan Option or any combination thereof.

ARTICLE 20. RENEGOTIATION

In the event the Association desires to meet and confer in good faith on the provisions of a successor memorandum, it shall serve upon the County its written request to commence meeting and conferring in good faith for such successor memorandum. Negotiations shall begin at a time mutually agreeable to the parties.

ARTICLE 21. IMPLEMENTATION

This Memorandum constitutes a mutual recommendation to be jointly submitted to the County Board of Supervisors. It is agreed that this Memorandum shall not be binding upon the parties either in whole or in part unless and until:

- A. The Board of Supervisors acts, by majority vote, formally to approve and adopt said Memorandum.
- B. The Board of Supervisors acts to appropriate the necessary funds required to implement the provisions of this Memorandum which require funding.

The County shall act in a timely manner to make the necessary changes in ordinances, resolutions, rules, policies and procedures to implement and conform to this Agreement.

Jointly submitted and recommended this 12<sup>th</sup> day of July, 2013.

FOR THE COUNTY OF SAN DIEGO:



DONALD W. TURKO  
Director Human Resources

FOR THE DISTRICT ATTORNEY  
INVESTIGATORS  
ASSOCIATION (DI, DM Units):



MATTHEW O'DEANE, President



KENNETH WEIDMANN JR.  
Chief Negotiator, Labor Relations Officer



STEVE LEONISIO  
Chief Negotiator